

*United States Court of Appeals
for the Second Circuit*



APPENDIX

DOCKET NO.

75-7087

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SCHUYLER MARKET, INC., and
NATALE DE MARTINO,

Plaintiffs-Appellants

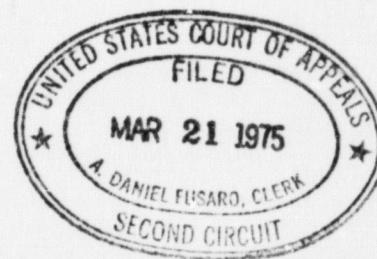
v.

EARL BUTZ, as Secretary of Agriculture
of the United States,

Defendant-Appellee

APPENDIX

APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK



SAMUEL GURSKY
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342 Madison Avenue
New York, N.Y.10017
MU2-5527

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SCHUYLER MARKET INC. & NATALE DE MARTINO V. EARL BUTZ, as Secy.

74 CIV. 4251

<u>Date</u>	<u>PROCEEDINGS</u>
Sep. 27-74	Filed complaint and issued summons.
Oct. 1-74	Filed pltf's affdvt. and order to show cause for a stay - ret. 10-10-74 at 4 PM in RM 618, service by 9-30-74 -- Metzner, J.
Oct. 10-74	Filed summons and Marshals return - served: Regional Director Food & Nutrition Service of Northeast Reg. Princeton, NY - cert. mail #161785 on 10-3-74 Atty. Gen'l, Dept. of Justice, Wash., DC. - cert. mail #161786 on 10-3-74
Oct. 21-74	Filed memo endorsed on O.S.C. Filed on 10-1-74: This motion is granted. Trial to proceed during the week of Dec. 9, 1974. A specific date will be furnished by the parties on or before 11-15-74. So ordered. -- Metzner, J. m/n
Nov. 22-74	Filed Answer of deft.
Dec. 2-74	Filed plaintiff's jury demand.
Dec. 9 -74	Filed defendants proposed findings of fact and conclusions of law.
Dec. 9 -74	Filed defendants trial memorandum.
Dec. 11-74	NON-JURY TRIAL begun before Metzner, J.
Dec. 12-74	Trial continued and concluded. Decision reserved. -- Metzner, J.
Dec. 20-74	Filed plaintiff's trial memorandum
Dec. 27-74	Filed OPINION #41640... After hearing the evidence I find that the plaintiffs have failed to prove by a fair preponderance of the evidence that the order (Pls. EX 8) attacked is invalid. Complaint dismissed. So ordered. -- Metzner, J. m/n
1 - 24-75	Filed pltfs notice of appeal to the U.S. Court of Appeals for the Second Circuit from the final judgment and order dismissing the Complaint entered December 27, 1974. - Copy mailed to U.S. Atty.
Feb. 27-75	- Filed transcript of record of proceedings dtd: Dec. 11 & 12-74.
Feb. 28-75	Filed stipulation designating exhibits to be transmitted to the U.S.C.A.

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk

by M. Park
Deputy Clerk.

COMPLAINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x CIVIL ACTION FILE
NO. 74 - 4251

SCHUYLER MARKET, INC. and
NATALE DE MARTINO

Plaintiffs,
v.

COMPLAINT

EARL BUTZ, as SECRETARY OF
AGRICULTURE OF THE UNITED STATES,

Defendant

-----x
The plaintiffs, complaining of the defendant,
alleges:

1. The plaintiff, SCHUYLER MARKET, INC. is a
domestic corporation organized and existing under the laws
of the State of New York and has its place of business at
689 Columbus Avenue, New York, New York.

2. The plaintiff, Natale De Martino, was at
the times herein mentioned and still is a resident of the
Borough of Manhattan, City and State of New York, and was
the president of Schuyler Market, Inc.

3. The defendant, EARL BUTZ, is the Secretary
of Agriculture of the United States, and as such is
authorized to formulate and administer a food stamp program
pursuant to the Food Stamp Act. of 1964.

4. The plaintiff, Schuyler Market, Inc. has been
authorized and qualified as a retail grocer to participate
in the Food Stamp Program of the Department of Agriculture
since August, 1970 and has participated as a retail grocer
in the Food Stamp Program.

5. That by letter dated April 1, 1974, the Regional Director of the Food Stamp Program of the Department of Agriculture accused the plaintiff, Schuyler Market, Inc. of violating certain regulations promulgated by the Department of Agriculture governing the Food Stamp Program which violations were alleged to have occurred approximately eleven months prior to April 1, 1974, the date of such letter.

6. The plaintiff, SCHUYLER MARKET, INC. replied, as required by the Regional Director of the Food Stamp Program, denying the accusations contained in the letter and requested an oral open hearing before an appropriate administrative officer at which witnesses on both sides could be questioned and cross-examined. This reply also pointed out the delay of eleven months between the alleged violations and the first notification to the plaintiff of such violations.

7. The Regional Director of the Northeast region of the Food and Nutrition Service of the Department of Agriculture replied that neither the Food Stamp Act nor the Regulations of Food Stamp Program promulgated by the Secretary of Agriculture provided for any such hearing and subsequently determined that plaintiff, SCHUYLER MARKET, INC. had violated the regulations of the Food Stamp Program and was disqualifying it from participation in such program for one year.

8. Pursuant to the Regulations of the Food Stamp Program, plaintiff SCHUYLER MARKET, INC. requested a

review of such determination and renewed its request for an open hearing where all witnesses on both sides could be questioned by counsel. Affidavits denying the violations alleged were filed with the Review Officer.

9. An informal meeting was held by the Review Officer of the Food and Nutrition Service of the Department of Agriculture with plaintiff, Natale De Martino and plaintiff's counsel. No accusing witnesses were produced; no information was given by the Review Officer of the Department as to the persons making the allegations; no details in addition to the original accusatory letter of April 1, 1974 was given with respect to these alleged transactions; no opportunity was given to question witnesses or accusers; no explanation was given for the delay of eleven months between the alleged transactions and the notification of same by the Department of Agriculture to the plaintiff.

10. Without further evidence, the Review Officer made a final determination by letter dated September 18, 1974 sustaining the determination of disqualifying SCHUYLER MARKET, INC. and NATALE DE MARTINO from participating in the Food Stamp Program for one year. The REVIEW OFFICER included Natale De Martino as an additional person to be disqualified although the original determination by the Regional Director spoke only of SCHUYLER MARKET, INC.

11. Plaintiffs have exhausted their remedies in the Department of Agriculture.

12. Such disqualification for a period of one year will mean a loss of approximately \$ 100,000.00 in business to the plaintiffs.

13. Under Section 13 of the Food Stamp Act of 1964 and Section 273.10 of the regulations of the Food Stamp Program, plaintiffs are entitled to judicial review, by trial de novo, of said final determination by filing this complaint in the United States District Court for the Southern District of New York.

14. The regulations promulgated by the Secretary of Agriculture under the Food Stamp Program is unconstitutional as it deprives plaintiffs of their property without due process of law.

WHEREFORE, plaintiffs demand judgment setting aside and annulling the determination of the Food and Nutrition Service, Food Stamp Program of the Secretary of Agriculture, and for such other and further relief as may be just and proper.

Dated, September 27, 1974.

Samuel Gursky

Samuel Gursky,
Attorney for Plaintiffs
342 Madison Avenue
New York, New York 10017

ANSWER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

x

ANSWER

same caption

74 Civ. 4251 (CMM)

x

Defendant, Earl Butz, as Secretary of Agriculture of the United States, by his attorney Paul J. Curran, United States Attorney for the Southern District of New York, for his Answer to the Complaint herein:

First: Denies knowledge or information sufficient to form a belief as to the allegations of paragraphs 1, 2, and 12 of the complaint.

Second: Admits the allegations of paragraphs 3 through 11 and paragraph 13 of the complaint.

Third: Denies the allegation of paragraph 14 of the complaint.

FIRST DEFENSE

Fourth: The complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Fifth: The Court is without jurisdiction to review the length of the disqualification of the plaintiff from the Food Stamp Program if the Court finds that plaintiff violated the Food Stamp Act or the regulations thereunder.

WHEREFORE, defendant demands judgment dismissing the complaint herein, together with the costs and disbursements of this action.

Dated: New York, New York,

November 21, 1974.

Yours, etc.,

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for the United States
of America.

By: Gregory J. Potter

GREGORY J. POTTER
Assistant United States Attorney
Telephone: (212) 791-1975

PLAINTIFF'S DEMAND FOR JURY TRIAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SCHUYLER MARKET, INC. and
NATÉALE DeMARTINO,

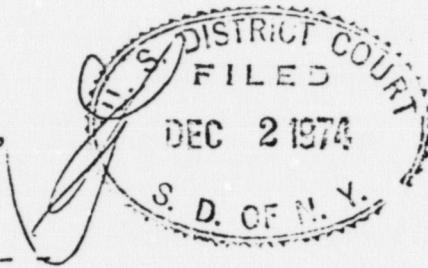
DEMAND FOR JURY TRIAL
74 Civ. 4251 (CMM)

Plaintiffs,

against

EARL BUTZ, as Secretary of
Agriculture of the United States,

Defendant.



SIRS:

Plaintiffs demand trial by jury of all issues in
this action.

Dated, December 2, 1974

Yours, etc.,
Samuel Gursky
SAMUEL GURSKY
Attorney for Plaintiffs
342 Madison Avenue
New York, N.Y. 10017
Mu2 - 5527

To:

PAUL J. CURRAN
United States Attorney for the
Southern District of New York
Attorney for the United States
of America
Foley Square, New York, N.Y. 10007

CLERK OF THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OPINION AND ORDER OF TRIAL COURT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEC 27 1974 FILED
S.D.C.C. N.Y.

----- x
SCHUYLER MARKET, INC. and
NATALE DE MARTINO.

Plaintiffs, :

-against- :

74 Civ. 4251

EARL BUTZ, as SECRETARY OF
AGRICULTURE OF THE UNITED STATES, :

Defendant. :

#41640

----- x
METZNER, D. J.:

Plaintiffs instituted this suit to obtain judicial review of the action by the defendant disqualifying plaintiffs for a period of one year from participating in the Food Stamp Program. The scope of review is a trial de novo of the question as to the validity of the administrative action. 7 U.S.C. § 2022, 7 C.F.R. § 273.10.

Employees of plaintiffs' supermarket are charged with having accepted food stamps for ineligible items and with having bought food stamps for cash at a discount (7 C.F.R. §§ 270.2(s) and 272.2(b)).

These charges are contained in the letter dated April 1, 1974 (Pls. Ex. 1).

MICROFILM

DEC 30 1974

After hearing the evidence, I find that the plaintiffs have failed to prove by a fair preponderance of the evidence that the order (Pls. Ex. 8) attacked is invalid.

Complaint dismissed.

So ordered.

Dated: New York, N.Y.
December 27, 1974

Charles L. Weitner
U. S. D. J.

1 gtmh

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x
5 SCHUYLER MARKET, INC. and :
6 NATALE DeMARTINO, :
7 Plaintiffs, :
8 vs. : 74 Civ. 4251
9 EARL BUTZ, Secretary of :
Agriculture, :
10 Defendant. :
11 -----x

12
13 Before:

14 HON. CHARLES M. METZNER,

15 District Judge

16 New York, New York
17 December 11, 1974 - 2 p.m.

18 APPEARANCES:

19 SAMUEL GURSKY, ESQ., and
20 HYMAN CHIPKIN, ESQ.,
21 Attorneys for Plaintiffs

22 PAUL J. CURRAN, ESQ.,
United States Attorney for the
Southern District of New York
23 By: GREGORY J. POTTER, ESQ., and
PETER C. SALERNO, ESQ.,
24 Assistant United States Attorneys
25

2 THE CLERK: Schuyler Market, Inc. and Natale
3 DeMartino against Earl Butz.

4 Is the plaintiff ready?

5 The plaintiff does not answer.

6 Is the defendant ready?

7 MR. POTTER: The defendant is ready.

8 Mr. Gursky, plaintiff's counsel, just went out
9 to locate his client. He should be back momentarily.

10 (Pause.)

11 THE COURT: Are you ready? Ready?

12 MR. GURSKY: Good afternoon, your Honor.

13 THE COURT: The plaintiff has filed a demand
14 for a jury trial in this case, which the Government
15 opposes and asks to have stricken.

16 I strike it for two reasons.

17 In the first place, there is no justification
18 in law for a trial by jury in this case and, secondly,
19 I was advised there would be no jury trial when I had
20 a pre-trial conference in this matter.

21 For both reasons, the motion of the Government
22 to strike the jury demand is granted.

23 MR. GURSKY: With respect to your second
24 reason, your Honor, may I make a statement?

25 THE COURT: Sure.

2 MR. GURSKY: At that time we were not aware
3 of the full significance of the question of law which
4 may be raised on the right to a jury trial in this case.
5 However, after our own research, we felt that we are
6 entitled to a jury trial and, therefore, we made the
7 application for it.

8 THE COURT: If by any chance there was a right
9 to a jury in this case, I never would have scheduled it.
10 I am sitting in part one. I can only hear cases in the
11 afternoon from day to day and sometimes hour to hour.

12 MR. GURSKY: I was not aware of that.

13 THE COURT: The Government consented to the
14 continuation of a TRO on the basis of a quick trial, you
15 said you were ready to go to trial and you said it was
16 a non-jury trial and I said fine.

17 In any event, you are not entitled to one, so
18 we will now proceed.

19 Do you have a copy of the order initially
20 served on you before you took your appeal?

21 Weren't you served with an order by the
22 Department of Agriculture and pursuant to that didn't
23 you file with the food review officer materials?

24 MR. GURSKY: Yes. I filed a request for
25 judicial review, if that is what your Honor means.

2 THE COURT: I suggest you put in evidence the
3 initial order served on you or your clients.

4 MR. GURSKY: At this time, your Honor, may I
5 offer the series of eight exhibits which would indicate
6 the nature of the administrative proceedings.

7 THE COURT: Mr. Potter, have you seen these?

8 MR. POTTER: Yes, your Honor. We have agreed
9 that these can go into evidence with your Honor's
10 permission.

11 THE COURT: All right. I will take them.

xxx 12 (Plaintiffs' Exhibits 1 through 8 received
13 in evidence.)

14 MR. GURSKY: I think Exhibit 8 is the notice
15 which we received from the review officer of the Food
16 & Nutrition Service advising of the determination to
17 disqualify the Schuman Market.

18 THE COURT: Exhibit 1, is that the first one
19 you received in April of 1974?

20 MR. GURSKY: That's correct, sir.

21 MR. POTTER: Your Honor, I don't want to argue
22 that --

23 MR. GURSKY: That is the letter of the charges.

24 MR. POTTER: That is the letter of charges.

25 There was one letter prior to that time.

2 THE COURT: Is that in evidence?

3 MR. POTTER: I am going to offer it, your Honor.

4 THE COURT: All right.

5 Plaintiffs' Exhibit 1, then, is 4/1/74.

6 (Pause.)

7 THE COURT: All right.

8 MR. GURSKY: If your Honor please, I would like
9 to move that this case be tried as a matter of procedure
10 so that the Government and its witnesses be heard first
11 as if they were the plaintiffs since the statute does say
12 that this should be a trial de novo.

13 It is a matter of the Government being able to
14 prove their charges before we should be called upon to
15 defend against those charges.

16 In the administrative proceedings, as indicated
17 by these Exhibits 1 to 8, the offenses which the defendant
18 could possibly have consisted only of a denial that these
19 transactions actually took place and, therefore, I think
20 it would behoove the Government to go forward first to
21 produce their witnesses and show that these transactions
22 actually took place and that they were in violation of
23 the food stamp regulations.

24 THE COURT: I think this is an action to declare
25 the order invalid. It is an action to declare the order

2 invalid and the burden is on you to prove it is invalid,
3 not on the Government to prove that it is valid.

4 It is true that this is an action de novo, but
5 that does not mean it changes the provisions of the statute
6 which says you can attack the validity of the order.

7 It may be that the Government has the burden of
8 going forward, but burden of proof on the entire case is
9 upon you.

10 MR. GURSKY: As I understand it under the various
11 definitions which I mentioned in my memorandum --

12 THE COURT: I have read your brief and the cases.

13 MR. GURSKY: That the idea of proving the facts
14 would have to be the burden of the Government --

15 THE COURT: I disagree with the applicability
16 of what you cited.

17 Did you read Judge Kellem's opinion in the
18 Eastern District of Virginia?

19 MR. GURSKY: Yes, your Honor, I read that deci-
20 sion. That was on a motion mostly to strike out the jury
21 demand. There he struck out the jury demand and I also
22 believe from what I read otherwise there was very little
23 doubt about the violations having been committed as there
24 was in a series of other cases, so it was only a question
25 of whether or not the administrative penalty imposed was

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2 justified.

3 Here I think we first have to find as a matter
4 of fact that the plaintiffs here actually did violate
5 these statutes as alleged in that letter of April 1, 1974.

6 THE COURT: That is not what the statute says,
7 Mr. Gursky.

8 MR. GURSKY: As I read the statute, it says
9 very plainly you are entitled --

10 THE COURT: 22-c says, "If you feel aggrieved by
11 the final determination, you may obtain judicial review by
12 filing a Complaint against the United States in the United
13 States District Court. The suit in the United States
14 District Court or State Court shall be a trial de novo by
15 the Court in which the Court shall determine the validity
16 of the questioned administrative action in issue."

17 MR. GURSKY: In order to determine the validity,
18 your Honor, I submit the Government must show that there
19 was an actual violation, otherwise --

20 THE COURT: That puts the burden on them to show
21 it is valid.

22 MR. GURSKY: I think that is what Congress intended.

23 THE COURT: I am sorry. The next sentence reads,
24 "If the Court determines that such administrative action
25 is valid, it shall enter such judgment or order as it

2 determines is in accordance with the law and the evidence."

3 You, as the plaintiff, are attacking the validity
4 of the order. The burden is on you to show the order is
5 invalid.

6 From reading your papers, I had an idea you didn't
7 know what the charges were against you, but after reading
8 Exhibit 1, I think it is pretty detailed what the charges
9 are against you. You knew what you were being charged
10 with, you were given names, places, dates.

11 MR. GURSKY: We were not given the names, except
12 in those instances where they gave the names of the charges
13 and we didn't really become familiar with the details of
14 these charges until we had the examinations before trial.

15 THE COURT: I think it is fairly detailed.

16 In any event, I rule against you. The burden
17 is on you to proceed.

18 MR. GURSKY: I respectfully except.

19 MR. POTTER: Your Honor, before we proceed, may
20 I make an application that the statement which was made
21 off the record at the application for the TRO, namely,
22 that the plaintiff would withdraw the challenge to the
23 constitutionality of Section 2022 be on the record at this
24 trial, because as I understand it Mr. Gursky's complaint
25 in this case is merely that the violations which the

2 Government alleges did not, in fact, occur, and I think as
3 your Honor stated on the record he is being offered a
4 full and complete hearing at this particular trial.

5 So I respectfully request that the constitutional
6 question be put to rest at the beginning of the trial.

7 THE COURT: I gather the plaintiff withdrew the
8 attack on the constitutionality of the section.

9 Isn't that true, Mr. Gursky?

10 MR. GURSKY: Yes, we did.

11 MR. POTTER: Thank you, your Honor.

12

13 N A T A L E D e M A R T I N O, called as a
14 witness by the plaintiffs, having first been duly
15 sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. GURSKY:

18 Q Mr. DeMartino, are you the president of the Schuyler
19 Market?

20 A Yes.

21 Q And are you also named as a plaintiff in this
22 action?

23 A Yes.

24 Q Are you the sole stockholder of this corporation?

25 A Yes.

2 Q Is the supermarket at 689 Columbus Avenue, Manhattan
3 the only grocery outfit that the corporation owns?

4 A Yes.

5 THE COURT: Where is 689 Columbus?

6 THE WITNESS: 93rd and Columbu

7 Q I read the charge in a letter April 1, 1974 --

8 THE COURT: Are you reading from Exhibit 1?

9 MR. GURSKY: Exhibit 1, sir.

10 Q Paragraph numbered 1, "On or about May 23, 1973,
11 Jean Parks, clerk, accepted \$8 in food coupons (4-\$2 coupons)
12 in exchange for merchandise which included one Selecto mop-
13 head, one Selecto bowl freshner, one box of Sweetheart soap,
14 one pack of hand needles, one pack of GE light bulbs and one
15 box of Q-Dyno thread. The acceptance of food coupons in ex-
16 change for the above named items was in violation of Section
17 270.2(s) and 272.2(b) of the regulations."

18 Were you ever notified prior to April 1, 1974 by any
19 representative of the Food & Nutrition Service of the United
20 States Department of Agriculture of such a charge?

21 A No.

22 Q Does Jean Parks work for Schuyler Market?

23 A Yes.

24 Q Was she employed there on May 23, 1973?

25 A Yes.

2 Q Did you speak to Jean Parks about this accusation?

3 A Yes.

4 Q What did she say about it?

5 MR. POTTER: Objection, your Honor.

6 THE COURT: Sustained.

7 MR. CURSKY: In order to shorten the questioning,
8 Judge, may I ask the witness to read these and then ask him
9 one question with respect to all of these charges?

10 THE COURT: You may.

11 You are now showing the witness Plaintiffs' 1.

12 Q Will you please read this letter, dated April 1,
13 1974, and after you have read it tell me whether or not --

14 THE COURT: Wait. Let him read it.

15 You read it, Mr. DeMartino.

16 (Pause.)

17 Q Now that you have read that, can you tell the Court,
18 please, whether any of those charges, to your knowledge, are
19 true?

20 A Not that I know of.

21 Q Some of those charges refer to you personally.

22 Are any of those charges where you are mentioned of
23 having violated the food stamp regulations, are any of those
24 charges true?

25 A No.

2 THE COURT: For the record, what paragraph numbers
3 are you referring to?

4 MR. GURSKY: Paragraph numbered 9, paragraph 10,
5 I see paragraph 6 his name is mentioned.

6 THE COURT: 6, 9 and 10, right?

7 MR. GURSKY: That's correct, sir.

8 THE COURT: All right, you may proceed.

9 Q And on July 19, 1974, did you sign the original of
10 this affidavit, which I show you?

11 (Handing.)

12 A Yes.

13 MR. GURSKY: I call upon the Government to produce
14 the original.

15 THE COURT: Do you want to use that?

16 Do you consent to the copy going in?

17 MR. POTTER: I consent to the copy going in, your
18 Honor.

19 THE COURT: All right. Mark the copy Plaintiffs'
20 Exhibit 9.

xxx 21 (Plaintiffs' Exhibit 9 received in evidence.)

22 THE COURT: I gather this was used in conjunction
23 with Exhibit 6 requesting the review?

24 MR. GURSKY: Yes, your Honor.

25 That is all of this witness at this time, your

2 Honor.

3 THE COURT: All right. You may cross-examine,

4 Mr. Potter.

5 CROSS-EXAMINATION

6 BY MR. POTTER:

7 Q Mr. DeMartino, in response to a question by Mr.
8 Gursky, you indicated that the April 1, 1974 letter was the
9 first indication you had received from the Department of
10 Agriculture as to violations in your store, possible viola-
11 tions in your store; is that correct?

12 A Yes.

13 MR. POTTER: Might I have this marked Defendant's
14 Exhibit A for identification.

xxx 15 (Defendant's Exhibit A marked for
16 identification.)

17 Q I show you what has been marked as Defendant's
18 Exhibit A for identification, and ask you whether on or about
19 the date of that letter you received the original of that
20 letter?

21 (Handing.)

22 A Yes, I received this.

23 MR. POTTER: If your Honor please, this is a
24 letter from the Department of Agriculture, and I offer it
25 in evidence as Defendant's Exhibit A.

2 MR. GURSKY: Do you have the original?

3 MR. POTTER: The original would be in your
4 client's possession, Mr. Gursky. I don't have the original.

5 MR. GURSKY: I object to this, your Honor, on
6 the grounds that this letter is dated May 31, 1972, which
7 is approximately one year prior to the date of the April 1,
8 1974 letter. That would be close to two years, I am sorry.

9 THE COURT: Let me see the letter.

10 MR. GURSKY: There is no reference in there that
11 there are any specific violations in any event.

12 In this letter of April 1, 1974, which is
13 Plaintiffs' Exhibit 1, they speak of violations which took
14 place from May 26, 1973 to June 6, 1973, and this letter
15 being offered is dated May 31, 1972.

16 I can see no relevance of this particular letter
17 to the --

18 THE COURT: I am reading it, Mr. Gursky.

19 MR. GURSKY: I am sorry, Judge.

20 (Pause.)

21 THE COURT: I will take it, but not for what
22 Mr. Potter is offering it for.

23 This shows that the witness was put on notice of
24 possible violations in the areas which I assume were covered
25 by the May asserted violations. But I won't take it as any

2 proof that in contradiction of what the witness said on
3 direct that the April 1st letter was the first notice he
4 had ever received of the asserted violations in May of 1973.

5 MR. POTTER: Thank you, your Honor.

6 MR. GURSKY: May I except to that, your Honor.

7 THE COURT: Certainly.

8 xxx 8 (Defendant's Exhibit A for identification
9 received in evidence.)

10 BY MR. POTTER:

11 Q Mr. DeMartino, how many days a week is your store
12 open?

13 A Seven.

14 Q And approximately how many days a week are you at
15 the store?

16 A Seven.

17 Q Did there come a time in 1970 that you made applica-
18 tion to become a participant in the food stamp program?

19 A Yes.

20 Q Did you have to file certain documents in connection
21 with that application?

22 A None that I know of.

23 Q Was your application accepted?

24 A Yes.

25 Q Were you assigned any authorization number?

2 A Yes.

3 Q Do you know what that number is?

4 A Not offhand.

5 Q If I suggested that the number is 005--

6 THE COURT: It wouldn't make any difference.

7 There is no dispute on that, is there?

8 MR. POTTER: It might be important, your Honor.

9 It might refresh the witness' recollection.

10 THE COURT: All right.

11 Q 0057622.

12 Does that number sound familiar?

13 A Yes, 0057622.

14 MR. POTTER: May I note what the witness is
15 looking at, your Honor?

16 THE COURT: Mr. Potter, does it make any difference?

17 MR. POTTER: It may become very relevant, your
18 Honor.

19 THE COURT: As to what his number is?

20 MR. POTTER: Yes, your Honor. It will not take
21 long, I promise you.22 I wish the record would indicate that the witness
23 in answering --24 MR. GURSKY: This is not proper cross-examination,
25 Judge.

2 THE COURT: Overruled.

3 Has he admitted the number you read to him?

4 MR. POTTER: There has been no allegation that
5 he had the number, your Honor, and the record must be clear
6 that that is his name.

7 The reason for this will become --

8 THE COURT: Is there any dispute he was registered?

9 MR. POTTER: No, your Honor.

10 MR. GURSKY: We don't deny it.

11 THE COURT: All right. He is registered.

12 MR. POTTER: Let the record indicate that the
13 witness looked at a stamp in response to that question.

14 THE COURT: I would like to know what difference
15 it makes. There is no dispute that he was registered.

16 MR. POTTER: Your Honor, the principal dispute
17 in connection with this witness is whether or not he, in
18 fact, purchased food stamps for cash.

19 THE COURT: Yes?

20 MR. POTTER: I intend to attempt to develop with
21 this witness the manner in which he handles food stamps.
22 This can become quite important in the Government's case.

23 The stamp that the witness had in his hand, I
24 believe, is used in connection with depositing stamps in
25 the bank. That is the purpose for this question.

2 THE COURT: Is he denying that the stamps were
3 deposited in the bank?

4 MR. POTTER: He has denied, your Honor, that he
5 received any of the stamps and paid cash for them.

6 THE COURT: Yes?

7 MR. POTTER: That is what is at issue in this
8 case and the Government --

9 THE COURT: But there is no dispute that the
10 stamps were deposited?

11 MR. POTTER: There is a dispute that these stamps
12 were deposited, your Honor, because he denies he ever
13 received them.

14 THE COURT: All right.

15 MR. POTTER: So might I have the stamp which the
16 witness made use of marked as Defendant's Exhibit B.

xxx

17 (Defendant's Exhibit B marked for
18 identification.)

19 BY MR. POTTER:

20 Q Mr. DeMartino, in connection with food stamps which
21 are used in your --

22 THE COURT: Don't leave it there.

23 MR. POTTER: I am going to ask him a question
24 about it, your Honor.

25 THE COURT: Go ahead.

2 Q In connection with the food stamps which are used
3 at your store which are used to purchase food, after they are
4 received in your store, do you deposit them in the bank?

5 A Once a week I deposit them.

6 Q Do you do this personally?

7 A My mother stamps them and I deposit them.

8 Q Is that the stamp that is used to stamp on the
9 coupon before it is deposited in the bank?

10 A Right.

11 MR. POTTER: I offer this in evidence as
12 Defendant's Exhibit B, your Honor.

13 THE COURT: Any objection?

14 MR. GURSKY: No, your Honor.

xxx 15 (Defendant's Exhibit B for identification
16 received in evidence.)

17 Q Mr. DeMartino, that stamp that has been marked and
18 received in evidence as Defendant's Exhibit B, is that the
19 same stamp that you had in May and June of 1973?

20 A That is the only one I ever had.

21 Q And that stamp has on it your number; is that
22 correct?

23 A Yes.

24 MR. POTTER: Let the record indicate that I am
25 opening an envelope which has been sealed, your Honor.

1 gtmh

DeMartino-cross

20

2 I would like the clerk to mark as Defendant's
3 Exhibit C for identification that envelope which I intend
4 to open, and I wish the clerk would open it and note the
5 contents of that envelope as twenty-five in number.

xxx

6 (Defendant's Exhibit C marked for
7 identification.)

8 THE CLERK: Your Honor, I just took some food
9 stamps out of this envelope and there are twenty-five food
10 stamps and there is a sor of IBM card attached, food stamp
11 redemption certificate. The name is Schuyler Market, Inc.
12 at 689 Columbus Avenue, New York.

13 MR. POTTER: Thank you.

14 THE COURT: Offer the food stamps and the IBM
15 card as a group.

16 MR. POTTER: I will, your Honor.

17 MR. GURSKY: May I see them?

18 MR. POTTER: After the witness has identified them.

19 BY MR. POTTER:

20 Q Mr. DeMartino, I show you a food stamp redemption
21 certificate, and ask you whether your name appears on the
22 bottom of that certificate?

23 A Yes.

24 Q I show you twenty-five food coupons which have been
25 previously marked, and I ask you if you can identify those

2 coupons?

3 A They have my stamp on it.

4 Q Can these food coupons be used --

5 MR. GURSKY: Did you look at all of them?

6 Q And those food coupons are stamped with the stamp
7 prior to your depositing them in the bank; is that correct?

8 A Right.

9 MR. POTTER: Mr. Gursky.

10 (Handing.)

11 (Pause.)

12 MR. POTTER: If your Honor please, I offer these
13 in evidence.

14 THE COURT: Any objection?

15 MR. GURSKY: No objection.

xxx 16 (Defendant's Exhibit C for identification

17 received in evidence.)

18 Q Mr. DeMartino, after you had become authroized to
19 participate in the food stamp program, did various people from
20 the Department of Agriculture visit your store as part of
21 instructional visits?

22 A Yes.

23 MR. POTTER: I have no further questions, your
24 Honor.

25 THE COURT: Any redirect?

2 REDIRECT EXAMINATION

3 BY MR. GURSKY:

4 Q Mr. DeMartino, will you tell the Court, please, the
5 type of neighborhood your store is in from the point of view
6 of economics and the use of stamps in your area at your store?

7 A Very --

8 MR. POTTER: Your Honor, I object as improper
9 redirect examination.

10 MR. GURSKY: This is in connection with his --

11 THE COURT: I will let it in.

12 Answer the question.

13 A It is a heavy stamp neighborhood, welfare neighbor-
14 hood. We have two or three buildings right opposite our store
15 that were supposed to be middle income and then all of a
16 sudden they made them a low income.

17 THE COURT: What was that?

18 THE WITNESS: They were supposed to be middle
19 income housing. Lever House and 70 West 93rd and 50 West
20 93rd were just for old people, they built a five-story
21 building for old people. It turned out they put welfare
22 in it and the beautiful building for old people are three-
23 quarters of welfare is there now.24 Q And with most of that type of people, your stamp
25 business had increased from August 1970?

2 A When the buildings opened up I was the only one
3 opened seven days a week. Now everybody is open seven days
4 a week.

5 MR. GURSKY: No further questions.

6 THE COURT: You may step down.

7 (Witness excused.)

8 THE COURT: Next witness.

9 MR. GURSKY: Is it all right if he stays now?

10 THE COURT: Yes.

11

12 J E A N P A R K S, called as a witness
13 by the plaintiffs, having first been duly sworn,
14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. GURSKY:

17 Q Miss Parks, are you employed by the Schuyler Market,
18 Inc.?

19 A Yes, I am.

20 Q At 689 Columbus Avenue?

21 A Yes.

22 Q How long have you been working there?

23 A December 17th will be three years.

24 Q And you were employed there on May 23, 1973?

25 A Yes.

1 gtmh

Parks-direct/cross

24

2 Q I show you this letter dated April 1, 1974, which
3 is Plaintiffs' Exhibit 1, and ask you to read the first two
4 paragraphs, paragraphs 1 and 2, and then I will ask you a
5 question on that.

6 (Handing.)

7 Q Have you read them?

8 A Yes.

9 Q Is there any truth to either of those accusations,
10 the contents of paragraphs 1 and 2?

11 A None whatsoever.

12 MR. GURSKY: No further questions.

13 CROSS-EXAMINATION

14 BY MR. POTTER:

15 Q Is it Miss Parks?

16 A Yes.

17 Q Miss Parks, what were you wearing on May 23, 1973?

18 THE COURT: Oh, you can't be for real.

19 A You are kidding?

20 Q You have looked at a letter and you say am I kid-
21 ding, yet you remember on May 23, 1974 --

22 MR. GURSKY: I object to the question.

23 THE COURT: I am sorry.

24 MR. POTTER: Excuse me, your Honor.

25 THE COURT: That may be dramatics for a jury,

2 but not for me. You don't expect me to be taken in by
3 that question, do you?

4 MR. POTTER: No. I am sorry.

5 THE COURT: Come on, let's get down to the guts
6 of the case.

7 Q How do you specifically remember what happened on
8 May 23, 1973, Miss Parks?

9 A I am not referring to the dates. The items listed
10 there is impossible to be purchased with food stamps.

11 Q In other words, they are ineligible items?

12 A Today, tomorrow or any other day, whatever date is
13 on there.

14 THE COURT: And she never violated the law, she
15 says, by her answer.

16 MR. POTTER: I have no further questions.

17 THE COURT: All right. You may step down.

18 (Witness excused.)

19 MR. GURSKY: That is all I have on the direct
20 plaintiffs' case, your Honor. I reserve my rights with
21 respect to rebuttal witnesses.

22 THE COURT: Let me see Exhibit 1, please.

23 (Pause.)

24 THE COURT: I gather, just to make the record
25 straight, that paragraph 5 also refers to Mr. DeMartino

2 and that his answer would be the same as to 5 as it was
3 to 6, 9 and 10.

4 MR. POTTER: I don't believe so, sir. That is
5 Peter DeMartino.

6 THE COURT: Oh, Peter. I am sorry.

7 MR. GURSKY: His general answer was that none of
8 these allegations in the letter were true. I was trying
9 to cover all of them by that one question.

10 THE COURT: But his denial of what a female clerk
11 did does not deny the allegation, does it?

12 MR. GURSKY: Well, they don't give any names of
13 any female.

14 THE COURT: I understand that. The mere fact
15 he says it is untrue, he does not know. He may not have
16 been in the store.

17 MR. GURSKY: That is one of the reasons why I
18 say, your Honor, I think it is up to the Government to --

19 THE COURT: Wait a minute. Just a moment.

20 (Pause.)

21 THE COURT: All right. He rests, Mr. Potter.

22 MR. POTTER: Your Honor, the Government respect-
23 fully moves that the Complaint be dismissed on the grounds
24 that plaintiff has failed to prove a prima facie case.
25 This is especially made true since paragraphs 3, 4, 5, 7

2 and 8 of the letter of April 1, 1974 have in no way been
3 proven to be false by the plaintiffs.

4 THE COURT: How can he? He does not know how
5 to prove it.

6 You say a female clerk.

7 MR. POTTER: If your Honor please, that goes to
8 the burden of proof. If we proceed, that will have to be
9 proven by the Government.

10 THE COURT: And I am denying your motion.

11 MR. POTTER: All right, your Honor.

12 The Government will call Mr. Joseph Gregas.

13

14 J O S E P H J. G R E G A S, called as a
15 witness by the Government, having first been duly
16 sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. POTTER:

19 Q Mr. Gregas, by whom are you employed?

20 A Department of Agriculture, food stamp program.

21 Q What is your title?

22 A Officer in charge for the Manhattan area.

23 Q What are your duties in connection with that
24 position?

25 A I administrate the food stamp program and some of my

2 duties are to orient and authorize retailers and wholesalers
3 to participate in the food stamp program and to see that we
4 do have voluntary compliance.

5 Q And what is, briefly, the purpose of the food stamp
6 program, Mr. Gregas?

7 A The food stamp program enables low income households
8 to buy more food at a lower income. Participants pay a small
9 sum of money which is based on the family size and net monthly
10 income. In return, they purchase food stamps at a greater
11 monetary value, which they are allowed to spend this money to
12 purchase eligible foods in stores that have been authorized by
13 the Department of Agriculture.

14 Q Briefly, sir, can the differences between eligible
15 items and ineligible items be briefly explained?

16 A Yes.

17 Eligible items are items that are consumed by humans
18 and this excludes dog food, cat food, alcoholic beverages,
19 paper products --

20 THE COURT: Wait, wait, that is a non sequitur.

21 Alcoholic beverages are consumed by humans.

22 THE WITNESS: It is not an eligible food. These
23 are ineligible.

24 Q Are imported products also excluded, Mr. Gregas?

25 A At the present time imported products are allowed to

2 be purchased with food stamps?

3 A In May and June of 1973, were imported objects per-
4 mitted to be purchased?

5 A To the best of my recollection of May 1973, no, they
6 were not.

7 Q After a store applies to become a participating
8 store, are any steps taken to see that the stores know the
9 regulations of the Department?

10 A Yes. Prior to the store's authorization, there is
11 an orientation meeting which I myself or the employees working
12 for me conduct an orientation session which indoctrinates them
13 completely in the food stamp regulations.

14 Q After this indoctrination, does your Department take
15 any steps to see if the regulations are followed?

16 A Yes. There are field personnel that visit the store
17 on routine visits conducting educational visits informing the
18 retailer of changes in the program regulations.

19 Q Are there any ways that the Department, your
20 Department, might become aroused as to whether or not a store
21 is, in fact, violating any of the regulations?

22 MR. GURSKY: I object to this as pure speculation,
23 conjecture.

24 THE COURT: It really isn't, because it is con-
25 tained in Exhibit A, is it not?

1 gtmh

Gregas-direct

30

2 They went to visit the defendant on the basis
3 that he had a high ratio of food stamps offered for -- I
4 don't know what you call it.

5 MR. GURSKY: It is some process or operation of
6 the witness' mind that he is asking.

7 THE COURT: I will let it in.

8 MR. POTTER: Your Honor, I will withdraw the
9 question.

10 THE COURT: Wait, wait, I am going to let it in.

11 MR. POTTER: Okay.

12 THE COURT: Of course it comes in.

13 It is a perfectly fair question to say, "What
14 makes you go and check on someone?"

15 Q Mr. Gregas?

16 THE COURT: He tells you the fact now. It is not
17 the operation of his mind. He is going to give you the fact
18 now.

19 What is it?

20 A Yes. When a retailer applies for authorization
21 there are certain pertinent information required as to the
22 retailer's gross sales and food sales. This information is
23 put into a computer bank and during the month the ADP reports,
24 the automatic processing reports show certain stores that may
25 be possible violators in a census track with high redemption

1 gtmh

Gegas-direct

31

2 showing that a certain store may be redeeming more food stamps
3 than other stores in that area.

4 Q When you mentioned census track, that means the area
5 in which the store is located?

6 A The area in which the store is located.

7 Q During the period of sometime in the latter part
8 of 1972, did your office receive any information from the
9 computer with respect to the deposit traits of the Schuyler
10 Market on Columbus Avenue in New York?

11 A Yes. They appeared as a high redeemer.

12 Q And what was done after that trait was noticed?

13 A A field representative was assigned to make a
14 compliance visit to the store informing the owners that they
15 did appear as high redeemers in the area which was considered
16 as a compliance visit.

17 Upon completion of the visit, this visit was con-
18 firmed by what we call a confirmation letter sent to the
19 retailer by certified mail.

20 THE COURT: Is that Exhibit A?

21 MR. POTTER: Yes, your Honor. I was just looking
22 for it.

23 THE COURT: I will assume that Exhibit A was
24 mailed.

25 MR. POTTER: All right, your Honor. Thank you.

2 Q Did your office take any steps to monitor the
3 Schuyler Market after that letter was sent, Mr. Gregas?

4 A Yes. To the best of my knowledge, it was monitored
5 from May until approximately December 1972.

6 Q And after December of 1972, did your office take any
7 action in connection with the Schuyler store?

8 A Yes. The monitoring showed that there was no
9 voluntary compliance and my office took steps to refer the
10 case in for investigation.

11 Q Was it referred to the office of the Inspector
12 General for investigation?

13 A It was first referred to the regional office, which
14 is now located in Princeton, and they, in turn, referred it
15 to the office of the Inspector General.

16 MR. POTTER: Thank you.

17 I have no further questions, your Honor.

18 THE COURT: Any cross-examination, Mr. Gursky?

19 MR. GURSKY: I see no point in cross-examining.

20 THE COURT: All right.

21 (Witness excused.)

22 MR. POTTER: If your Honor please, the Government's
23 next witness will be Mrs. Nydia Cabassa.

24

25 N Y D I A C A B A S S A, called as a witness

1 gtmh

Cabassa-direct

33

2 by the Government, having first been duly sworn,
3 was examined and testified as follows:

4 MR. POTTER: Your Honor, with the Court's per-
5 mission, Mr. Salerno will handle the examination of Miss
6 Cabassa.

7 DIRECT EXAMINATION

8 BY MR. SALERNO:

9 Q Mrs. Cabassa, in May and June of 1973, did you do
10 work for the United States Department of Agriculture?

11 A Yes.

12 Q What was the nature of that work?

13 A I was an investigator aide.

14 THE COURT: Investigator aide?

15 THE WITNESS: Yes.

16 Q When did you first do work of this kind for the
17 Department of Agriculture?

18 A First time?

19 Q Yes.

20 A 1971.

21 Q In May and June of 1973, was this work full-time or
22 part-time?

23 A Part-time.

24 Q Did you work on a daily basis? Did you work every
25 day?

2 A No.

3 Q Did you work only when you were called or what?

4 A Only when I was called.

5 Q Do you still occasionally do work of this kind for
6 the Department of Agriculture?

7 A Yes.

8 Q What did you do as an investigator aide or investi-
9 gative aide?

10 A I go into stores and try to get ineligible items.

11 Q To purchase ineligible items, you said?

12 A Yes.

13 Q With what?

14 A With food coupons.

15 Q What would your procedure be on any given day?

16 What would be the first thing you would do when you were
17 working as an investigator aide?

18 A The first thing I would do?

19 Q Yes.

20 A When I go into the store?

21 Q Before you go into the store.

22 A I would get food coupons from my agent.

23 Q You go to the store?

24 A First I would get the food coupons from my agent and
25 then I would go to the store.

2 Q You would get the food coupons before you go into
3 the store?

4 A Yes.

5 Q You go to the store, that is to say to the outside
6 of the store, with the agent?

7 A Yes.

8 Q And you say he gives you food coupons?

9 A Yes.

10 Q What else happens between you and the agent before
11 you go into the store?

12 A He gives me instructions.

13 Q What does he instruct you to do?

14 A He tells me what to buy.

15 MR. GURSKY: I object, your Honor, to any con-
16 versation between her and the agent.

17 THE COURT: I will allow in general instructions
18 as to how she is to proceed.

19 MR. SALERNO: It is obviously not being offered
20 for the truth of what is said.

21 THE COURT: The objection is overruled.

22 Q What instructions did you say you were given by the
23 agent before you would go into a store?

24 A He will give me instructions on what to buy.

25 Q What would he tell you to buy?

2 A Ineligible items.

3 Q And in addition to giving you food stamps, would he
4 give you anything else? Would he give you anything else other
5 than food stamps to go into the store with?

6 A No.

7 Q Did you see him writing anything down when he gave
8 you the food stamps?

9 A Yes. He wrote down the serial numbers of the food
10 coupons.

11 Q Did you have a purse or any personal cash on you
12 when you went into the store?

13 A When I went in the store?

14 Q Yes.

15 A No.

16 Q What did you do --

17 MR. GURSKY: Excuse me, your Honor. Am I still
18 to assume they are talking generally?

19 MR. SALERNO: So far I am talking generally.

20 THE COURT: So far he is talking generally. Now
21 she is going to be shown, I assume, the twenty-five stamps.

22 Q What did you do with any personal belongings you had
23 with you when you went into the store?

24 A I would leave them with my agent.

25 Q So is it fair to say that you never had any of your

2 own cash on you or your own food stamps with you when you went
3 into the store?

4 MR. GURSKY: I object to that as leading.

5 THE COURT: Sustained.

6 MR. SALERNO: Withdraw the question.

7 Q What would you do after you got the food stamps from
8 the agent?

9 A I would go into the store --

10 MR. GURSKY: If your Honor please, I think at
11 this point --

12 THE COURT: Ask her from then on how she operated.

13 MR. SALERNO: That is exactly what I was trying
14 to ask her.

15 MR. GURSKY: Are we still talking generally?

16 MR. SALERNO: Yes, we are.

17 THE COURT: Yes.

18 Q What would you do after you --

19 THE COURT: I suggest you come down to it.

20 Is she the person that came to this store?

21 MR. SALERNO: Yes.

22 THE COURT: Ask her what she did in this
23 particular instance.

24 Q Directing your attention to the month of May 1973,
25 do you recall shopping at the Schuyler Market doing business

2 as Pioneer Market in your capacity as an investigative aide
3 for the Department of Agriculture?

4 A Yes.

5 Q Do you recall how many times you visited that
6 market?

7 A Three times.

8 Q Do you recall the exact dates of your visits?

9 A Yes.

10 Q What were those dates?

11 A The 23rd of May, 1974 -- 1973.

12 Q Yes.

13 A The 24th of May, 1973 and the 30th of May, 1973.

14 Q Do you remember those dates completely independent
15 of having looked at any documents?

16 A No.

17 Q You looked at a document to refresh your recollec-
18 tion as to those dates?

19 A Yes.

20 Q What was that document?

21 A A statement.

22 Q What kind of a statement is this?

23 THE COURT: Do you have it there?

24 MR. SALERNO: Yes, I do, your Honor.

25 THE COURT: Show it to her.

1 gtmh

Cabassa-direct

39

2 Q I show you Defendant's Exhibit D, E and F marked
3 for identification, and ask you if these are statements signed
4 by you when you visited the Schuyler Market?

5 (Handing.)

6 A Yes.

7 Q That is your signature at the end of those
8 statements?

9 A Yes.

10 MR. GURSKY: I wanted to take a look at them,
11 Judge. I suppose they are not offered.

12 THE COURT: I assume he is going to offer them.

13 MR. SALERNO: Yes, I shall shortly, your Honor.

14 Q That is your signature at the end of each statement?

15 A Yes, it is.

16 Q Did you read that statement through at the time that
17 you signed it?

18 A Yes, I did.

19 Q And was it true at the time that you signed it?

20 A Yes.

21 MR. SALERNO: Your Honor, I respectfully offer
22 these in evidence at this time.

23 THE COURT: Show them to Mr. Gursky.

24 (Handing to Mr. Gursky.)

25 MR. GURSKY: Are those originals? They appear

2 to me to be copies.

3 MR. SALERNO: They appear to be originals, I
4 think. Look closely at the signatures.

5 MR. GURSKY: I think they are photocopies, if
6 your Honor pleases.

7 MR. SALERNO: Would you examine them?

8 MR. GURSKY: I think I would prefer if they
9 have the originals to submit the originals.

10 THE COURT: He says they are the originals.

11 MR. GURSKY: Will you ask the witness?

12 Q Mrs. Cabassa, will you examine these very carefully,
13 including your signature, and I ask you if that is an original
14 document and not a photocopy?

15 A This is an original.

16 MR. SALERNO: Would you like to examine them
17 again?

18 MR. GURSKY: Yes.

19 (Handing.)

20 THE COURT: How much longer will your case take?

21 MR. POTTER: Your Honor, we have two witnesses
22 after Mrs. Cabassa.

23 THE COURT: Is that all?

24 MR. POTTER: That's all, sir.

25 THE COURT: Do you have any rebuttal?

2 MR. GURSKY: Yes, your Honor, I will have some
3 rebuttal.

4 THE COURT: My question is, will we finish today
5 or do we want to come back tomorrow? I am willing to sit
6 until five o'clock if that will complete the day.

7 MR. GURSKY: I don't think we will be able to
8 finish today, Judge.

9 THE COURT: No?

10 MR. GURSKY: I don't think so.

11 THE COURT: All right.

12 We will have a short recess then.

13 (Recess.)

14 MR. SALERNO: Your Honor, I had offered Defendant's
15 Exhibits D, E and F in evidence.

16 THE COURT: Any objection?

17 MR. GURSKY: If she says it is original --

18 THE COURT: All right.

xxx 19 (Defendant's Exhibits D, E and F for identi-
20 fication received in evidence.)

21 MR. GURSKY: Your Honor, of course, I don't admit
22 the truth of these reports, it is just that she signed them.

23 THE COURT: They are no more persuasive than
24 other oral testimony. Is that what you mean?

25 MR. GURSKY: Well, I am not admitting that what

2 she says --

3 THE COURT: The oral testimony is she went to
4 the Schuyler Market.5 MR. GURSKY: What I am saying is I don't admit
6 by not objecting to it going into evidence the truth of
7 what she is saying in that paper.8 THE COURT: You don't admit the truth of any of
9 the evidence or the documents. I understand that.

10 MR. GURSKY: All right, sir.

11 (Pause.)

12 THE COURT: You may proceed.

13 BY MR. SALERNO:

14 Q Mrs. Cabassa, do these statements show how many food
15 stamps you were given on each occasion when you went to shop
16 the Schuyler Market?

17 A Yes, they do.

18 THE COURT: Do you want to go through the routine
19 she does not remember, but this refreshes her recollection?20 MR. SALERNO: No. I am just asking her to high-
21 light a few of the --

22 THE COURT: I was talking to Mr. Gursky, not to you.

23 MR. GURSKY: If your Honor please, if she can't
24 testify from recollection, then, of course, the question is
25 proper.

2 MR. SALERNO: I was just asking what they show.

3 THE COURT: That does not mean anything, what
4 they show.

5 MR. SALERNO: I understand, your Honor.

6 BY MR. SALERNO:

7 Q Do you recall how many food stamps were given on
8 each of the dates that you went to shop the Schuyler Market
9 without looking at those statements?

10 A No.

11 Q Do these statements refresh your recollection as to
12 how many food stamps you were given on each occasion?

13 A Yes, they do.

14 Q Do you have an independent recollection after
15 reading those statements or is it just reading the statements?

16 A Just reading the statement.

17 Q Do you recall who gave you the food stamps on each
18 given date?

19 A Yes. Agent Ricks.

20 MR. GURSKY: I am sorry, I didn't hear you.

21 THE WITNESS: The agent Mr. David Ricks.

22 Q Do you recall without looking at those statements
23 which ineligible items or if any ineligible items were pur-
24 chased by you when you shopped the Schuyler Market?

25 A No.

2 Q Looking at those statements, is your recollection
3 refreshed?

4 THE COURT: When did you make the statements out?

5 THE WITNESS: The same day --

6 THE COURT: The same day or when you came out
7 of the store?

8 THE WITNESS: Yes, the same day --

9 THE COURT: As soon as you came out of the store
10 you wrote down what had happened inside?

11 THE WITNESS: Yes.

12 THE COURT: And what you wrote down at that time,
13 was that truthful at the time?

14 THE WITNESS: Yes.

15 Q I asked you earlier if reading those statements
16 refreshed your recollection as to how many food stamps you
17 were given.

18 Without looking at them, can you, in fact, without
19 looking at them now, can you, in fact, now state what the
20 number was?

21 A No.

22 Q So it is only by reading the statement that you know
23 how many food stamps you were given?

24 A Yes.

25 Q And was that true, also, with respect to ineligible

1 gtmh

Cabassa-direct

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2 items?

3 A Yes.

4 Q What did you purchase these ineligible items with?

5 A With food coupons.

6 Q Did you have any food coupons on your person other
7 than those given to you by the agent?

8 A No, I didn't.

9 Q Did you have any cash on your person?

10 THE COURT: You have asked those questions.

11 MR. SALERNO: I am sorry, your Honor.

12 Q Can you describe as to each visit the persons who
13 sold you ineligible items for food coupons?

14 A No.

15 Q Would those statements refresh your recollection as
16 to the person, as a description of the person who sold you
17 those items?

18 A Yes.

19 Q Could you describe those persons?

20 A Without reading this?

21 Q Yes. Could you describe them without reading that
22 statement?

23 A No.

24 Q Once you have read them, does the statement refresh
25 your recollection?

2 THE COURT: You have already gone through the
3 fact that everything she wrote on the statement was
4 written immediately after she came out of the store and
5 correctly reflected what happened to her at that time.

6 MR. SALERNO: I understand that, your Honor, and
7 if the entire statement is accepted for that, I n - dn't --

8 THE COURT: I am taking it, but he is not ad-
9 mitting the truth of it, that's all.

10 MR. SALERNO: I understand that. But I thought
11 I would try to exhaust the witness' recollection as
12 refreshed as well.

13 THE COURT: Obviously she could not recall.

14 MR. SALERNO: Okay.

15 Q I would like to direct your attention, however, to
16 the statement of May 30, 1973, which is Defendant's Exhibit F.

17 Did anything else happen on that date other than
18 that you purchased ineligible items?

19 A Yes.

20 Q What happened?

21 A I saw the other investigator aide --

22 Q Another investigator aide?

23 A Yes.

24 Q There was another aide with you on that date?

25 A Yes.

2 Q What was his or her name?

3 A It was Miss Ruth Oliveras.

4 Q What did you see her do?

5 A I saw her give some food coupons to this man in the
6 store.

7 Q To a man in the store?

8 A Yes.

9 Q What did he look like?

10 A He was around fifty-five years old, had black and
11 gray hair.

12 Q And what did he do with the food coupons given to
13 him by Mrs. Oliveras?

14 A He took it to another man.

15 Q Can you describe that man?

16 A Yes. He was around forty-five years old, weighing
17 around 300 pounds, had long hair parted in the middle.

18 Q What did those two people do that you could see?

19 A They talked.

20 Q And then what did the first man do?

21 A He came back and --

22 Q Then what did he do?

23 A He gave some money to Miss Oliveras.

24 Q Did he do anything else?

25 A Mrs. Oliveras handed him the coupons.

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2 Q Did he do anything else beyond handing the coupons
3 and exchanging them for money?

4 A No.

5 Q Did you have a conversation with him?

6 A Yes.

7 Q What did he say?

8 A I told him I could get some coupons.

9 MR. GURSKY: Pardon? I didn't hear her.

10 THE WITNESS: I told him I could get some more
11 coupons.

12 Q And what did he say?

13 A He said, "Any time, I guess so," to bring it to him.

14 MR. SALERNO: Thank you.

15 I have no further questions of this witness.

16 THE COURT: Cross-examine.

17 CROSS-EXAMINATION

18 BY MR. GURSKY:

19 Q When were you born, Mrs. Cabassa?

20 A October 19, 1949.

21 Q Are you married?

22 A Separated.

23 Q Do you have any children?

24 A Yes.

25 MR. SALERNO: Your Honor, objection. I don't --

2 THE COURT: What does this have to do with it?

3 MR. SALERNO: I object to the relevancy.

4 MR. GURSKY: With respect to her background,
5 Judge. I think this is a matter of credibility involved.

6 THE COURT: Go ahead.

7 She is married, divorced or separated and has
8 children.

9 Q How old are your children?

10 THE COURT: Twenty-five she told us.

11 Oh, how old are the children?

12 MR. GURSKY: Yes.

13 THE COURT: What difference does it make how old
14 the children are?

15 MR. GURSKY: It may make a difference with respect
16 to the date of marriage.

17 THE COURT: I think you ought to go on to another
18 question.

19 MR. GURSKY: May I see those reports you just
20 offered?

21 MR. SALERNO: The witness has them.

22 (Handing.)

23 Q Are these reports, Exhibit D, E and F, in your
24 handwriting?

25 A No, only my signature.

1 gtmh Cabassa-cross

2 Q So that you didn't write any of these reports?

3 A No.

4 Q Did someone write these for you?

5 A Yes. The agent.

6 Q And what did the agent do? Did he ask you questions?

7 A Yes.

8 Q And he filed in spaces; is that correct?

9 A I --

10 Q Spaces on this form.

11 A I don't understand.

12 Q You've got lines.

13 When he first started to write, were these spaces

14 where the lines were, were they blank?

15 A Yes.

16 Q And then who wrote in on these blank lines?

17 A The agent.

18 Q So you didn't write?

19 A No. I only signed them.

20 Q He told you to sign and so you signed?

21 THE COURT: Did you read it before you signed it?

22 THE WITNESS: Of course.

23 Q Will you tell the Court, please, how you obtained

24 this job?

25 Did you have to sign any personnel questionnaire,

2 a form asking about your background, your education, your
3 experience? Did you have to sign or fill out such a form?

4 A No.

5 Q How were you hired?

6 A I was hired by two agents from the Department of
7 Agriculture.

8 Q What did they do to hire you? Where did they come
9 for you or where did you go for the job?

10 A They came to pick us up.

11 Q You say "us." Who do you mean?

12 A The other aide, Mrs. Oliveras.

13 Q As a matter of fact, wasn't Mrs. Oliveras hired --

14 A Yes.

15 Q -- before you were?

16 A Yes, yes.

17 THE COURT: How did you happen to be hired?

18 THE WITNESS: Mrs. Oliveras was hired first,
19 then I was hired second.

20 THE COURT: How did you happen to be hired?

21 THE WITNESS: She was hired by a Puerto Rican
22 community organization.

23 THE COURT: She was hired by a Puerto Rican
24 organization?

25 THE WITNESS: Community organization.

2 THE COURT: Then how did you become hired? Did
3 she tell you to come and get a job?

4 THE WITNESS: They wanted another aide, so she
5 told them she would get someone.

6 THE COURT: She told that to whom?

7 THE WITNESS: To the agents.

8 THE COURT: To the agents.

9 Q And then only the agents interviewed you; is that
10 correct?

11 A Yes.

12 Q And they didn't have you sign any application?

13 A No, only my social security.

14 Q That is the only thing they asked you for?

15 A Yes.

16 Q Your first visit to the Schuyler Market was on the
17 23rd of May, 1973 according to this report; is that correct?
18 Is that correct?

19 A Yes.

20 Q Were you wearing slacks or pants on that day?

21 A Yes, I was.

22 Q And did Mr. Ricks, who was -- was he the agent who
23 was with you?

24 A Yes, he was.

25 Q Did he ask you to empty your pockets before you went

2 into the store?

3 A No.

4 Q Did he empty or examine your purse, your handbag?

5 A No. I left my purse in the car.

6 Q But he didn't look in it?

7 A No.

8 Q And you got no receipt from him as to what you may
9 have had in the handbag?

10 A No.

11 Q And when you came back, you didn't give him any
12 receipt for your handbag?

13 A No.

14 Q I notice in Defendant's Exhibit D, the report of
15 May 23rd, you list certain items on page 2 thereof, among
16 which ineligible item was a package of Meadow Gold cheddar --
17 I guess that's cheese. Is it? Look at it.

18 The letters NM are next to it.

19 A Yes.

20 Q What do the letters NM mean?

21 A No mark.

22 THE COURT: No mark?

23 THE WITNESS: No mark. They have no price.

24 Q Did you get a tape when you left the checkout
25 counter at the Schuyler Market?

2 A I can't remember.

3 Q Would you say for sure that you didn't get one?

4 A I can't remember if I did.

5 Q In most of the supermarkets that you went into,
6 whether for yourself or for the Department of Agriculture,
7 don't you almost always get a tape?

8 A If I did get a tape, I would have gave it to the
9 agent.

10 Q You didn't answer my question.

11 Q Don't you generally get a tape when you buy some-
12 thing in a supermarket?

13 A Yes.

14 Q When you went out of the Schuyler Market on the
15 23rd of May, I presume that you had all of these items that
16 are listed here, the ineligible as well as the eligible ones?

17 A Yes.

18 Q And what did you do with it?

19 A I gave them to the agent.

20 Q And did he give you any kind of a receipt or paper
21 showing what you turned over to him?

22 A No.

23 Q Did he sit down and figure out with you how much
24 these items came to, what was the total?

25 A Yes, he would by the change I gave back to him.

2 Q And how could you figure what price there was for
3 this Meadow Gold cheese which is marked "no mark"?

4 A We didn't figure it out.

5 Q You didn't figure it out?

6 A No.

7 Q So the fact is you don't know exactly how much you
8 paid for it, for the cheese?

9 A Not for the cheese alone.

10 Q I refer you to Defendant's Exhibit E, May 24, 1973,
11 and ask you if you went through the same procedure with
12 Mr. Ricks?

13 A I did.

14 Q And before you went into the store, I assume you had
15 to turn over your handbag?

16 A I did.

17 Q And you were wearing slacks or pants of some sort?

18 A I did, yes.

19 Q Did he look in your purse, your handbag?

20 A No.

21 Q Did you look in to see what you had just before you
22 gave it to him?

23 A No. I knew what I had.

24 Q Did you empty your pockets?

25 A No.

2 Q And did he tell you which articles to buy on that
3 occasion?

4 A Yes, he did.

5 Q Each one of these articles he told you to buy?

6 A No, no specific.

7 Q I am sorry, I didn't hear you.

8 A No. He wouldn't tell me all of them.

9 Q Did he tell you any of these to buy?

10 A Yes.

11 Q Which ones did he tell you specifically to buy?

12 Look at this report.

13 A Like, electric light bulbs, cigarettes, but they
14 didn't have any cigarettes there, cleanser, paper napkins.

15 Q Just those four items, that's all he told you to
16 buy?

17 A No. He told me to buy ineligibles and those
18 ineligibles.

19 Q Well, I see in your column of ineligibles you have
20 six items.

21 A Yes.

22 Q But he told you only to buy four out of those six?

23 A No, he didn't tell me the numbers.

24 Q What exactly did he tell you?

25 A He told me to get cigarettes, beer, other kinds of

2 in eligibles.

3 Q I am looking for the cigarettes and the beer on
4 these items and I don't see them.

5 A No.

6 Q Do you see any on here, any cigarettes or beer on
7 this?

8 A No, no, I don't.

9 Q So you didn't buy what he told you to buy?

10 A They didn't have it.

11 Q You mean a supermarket didn't have cigarettes?

12 A They had it in a machine.

13 Q And they didn't have beer?

14 A They had beer.

15 Q But you didn't buy it?

16 A No.

17 Q Is there any note on this report to show that they
18 didn't have any beer? Did you tell Mr. Ricks to put down that
19 they didn't have any beer?

20 A I didn't try for beer.

21 Q Did you tell him that there were no cigarettes
22 except in the machine?

23 A Yes.

24 Q Did he put it down?

25 A No.

2 Q When you brought the items into Mr. Ricks -- by
3 the way, where was he after you got out of the store? Where
4 did you have to meet him again?

5 A Around the block.

6 Q Around which block? Which street?

7 A Around the corner of the store (indicating).

8 Q Which street was it? Does the street have a number
9 or a name?

10 A I can't remember.

11 Q You don't remember which street it was?

12 A No.

13 Q Was this given to you in a regular paper bag or a
14 shopping bag?

15 A Regular paper bag.

16 Q You were able to get all these items in a regular
17 paper bag?

18 A Yes.

19 Q And when you brought them into -- where did you
20 bring them to, the car?

21 A To the car.

22 Q And you gave the whole bag to Mr. Ricks?

23 A Yes.

24 Q And what did he do with the bag?

25 A He took out the items and wrote them down.

2 Q And he wrote each item down?

3 A Yes.

4 Q Did you get a tape for these items when you went out
5 at the checkout counter? When the checker rings up each item,
6 they have a tape, don't they?

7 A Yes.

8 Q Did you get such a tape with this bag of merchandise?

9 A I can't remember if I did.

10 Q You wouldn't say for sure that you didn't get one,
11 would you?

12 A I can't remember if I did.

13 Q I notice, also, that on this report you have three
14 items that have NM after them meaning no mark.

15 A 'No mark.'

16 Q Did you sit down and figure out how much these NM
17 items cost you?

18 A No.

19 Q Could you have figured it out without a tape?

20 A Me?

21 Q Yes.

22 A No.

23 Q When you go into a supermarket when you buy stuff
24 for yourself and your family at your hometown -- you live in
25 Hoboken, don't you?

2 A Yes.

3 Q Doesn't your checker at your food market give you a
4 tape?

5 A Yes, where I go buy it they give me a tape.

6 Q And you check each item, don't you?

7 A Sure.

8 Q But here you didn't? Here you didn't?

9 A No.

10 Q Did you or Mr. Ricks try to figure out whether you
11 were returning the proper amount of money or coupons to him?

12 A The agent did.

13 Q But you didn't go over his figures?

14 A No.

15 Q Would you be surprised if I told you there was a
16 shortage in those figures?

17 A What?

18 Q Would you be surprised if I told you there was a
19 shortage in those figures based on the prices? Would you be
20 surprised?

21 A No.

22 Q Did you discuss the question of prices with Mr.
23 Ricks to see whether you were being overcharged or under-
24 charged on these items?

25 A No. I just gave him the change and the groceries.

2 He figured it out.

3 Q You gave him change on the 24th of May?

4 You show me where you say you gave him any change.

5 Here is your report, Exhibit E. Show me where you say you
6 gave him change?

7 A I didn't say specifically on the 24th of May.

8 Q We are talking about that report.

9 A No, I didn't. It was \$10 even.

10 Q It was \$10 even with three articles without a price?

11 A Yes.

12 Q On each of these two dates, the 23rd and the 24th,
13 did you ask the checker, the one at the counter, for her name?

14 A No.

15 Q You didn't ask anybody else for her name, did you?

16 A No.

17 Q Did Mr. Ricks ask you to get her name?

18 A No.

19 Q And did Mr. Ricks, after you brought the merchandise
20 to him on the 23rd and on the 24th, go back into the store or
21 did he go on to the next store?

22 A He went on to another store.

23 Q How long did it take you to shop on each of these
24 two occasions?

25 A Around 15 minutes.

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2 Q And did you make any notes of your own while you
3 were shopping?

4 A No.

5 Q On a sheet of paper?

6 A No.

7 Q As to the articles you were buying?

8 A No.

9 Q The prices marked?

10 A No.

11 Q Or a description of the people that you were doing
12 business with, the checker? Did you make any notes, write
13 anything down?

14 A No.

15 Q Did you write anything down on the 30th of May,
16 1973?

17 I am referring now to your report, Defendant's
18 Exhibit F, with respect to the persons that you were supposed
19 to do business with on that day. Did you make any notes about
20 what was doing in that store on that date?

21 A No.

22 Q I see you describe a female clerk as being the one
23 that you did business with on the 30th of May, 1973, about
24 thirty years old and about five foot-four inches tall and
25 weighing about 155 pounds.

2 Did you ask her name?

3 A No.

4 Q Did you ask anyone else for her name?

5 A No.

6 Q I see you also purchased some items on that day.

7 Here, too, we have another NM item.

8 A No mark.

9 Q One package of Kraft cheese, cheddar.

10 Did you get a tape on this occasion, on the 30th
11 of May?

12 A Can't remember.

13 Q Did the checker give you a tape?

14 A Can't remember.

15 Q From the register?

16 A Can't remember.

17 Q And did Mr. Ricks ask you about the price of the
18 cheese which was not marked on this occasion?

19 A No.

20 Q Did Mr. Ricks ever ask you for a tape from the
21 register?

22 A If I had it I give it to him.

23 Q Did he ever ask you for any on these three occasions?

24 A No.

25 Q I think I heard you testify that you saw a man --

2 this was also on the 30th of May when you bought these items, -

3 A Yes.

4 Q -- Black-gray hair take a book of coupons from
5 Ruth D. Oliveras, according to this report.

6 A Right.

7 Q This is what you told Mr. Ricks?

8 A Yes.

9 Q Where was this man standing when you saw him?

10 A In the vegetable counter.

11 Q Near the vegetable counter?

12 A Right.

13 Q I show you this photograph, and ask you if this is
14 a fair representation of the vegetable counters in that store?

15 MR. SALERNO: Is this going to be marked?

16 MR. GURSKY: Yes.

17 May I mark it for identification now at least.

18 THE COURT: Is it a fair representation?

19 THE WITNESS: I can't recall.

20 THE COURT: What?

21 THE WITNESS: I can't recall it.

22 Q What part of the vegetable counter was this man
23 standing at?

24 A In front of it.

25 Q Well, can you point to any spot where you think

2 would be the front of that vegetable counter?

3 THE COURT: The witness can't recall whether
4 that fairly represents the vegetable counter. How can
5 she tell you what the front of it was?

6 Q How about this photograph, is that a fair
7 representation --

8 MR. SALERNO: Excuse me, your Honor, shouldn't
9 these be marked before he shows them to the witness?

10 THE COURT: If she says she recalls it I will
11 have it marked.

12 A I can't recall.

13 Q In what part of the store was the vegetable stand?

14 A On the side (indicating).

15 Q Which side? As you come in from the street, where
16 would you turn? Would you go to the left or to the right or
17 straight ahead?

18 A I can't remember.

19 Q You don't remember whether you turn left or right?

20 A Yes.

21 Q Or straight ahead?

22 A Right.

23 Q What made you so sure that he was standing at the
24 vegetable counter?

25 A Because I saw him. There was the vegetables and he

2 was standing there.

3 Q And you were standing next to him or near him?

4 Were you standing near him or next to him?

5 A I was standing next to Mrs. Oliveras.

6 Q And where was Mrs. Oliveras?

7 A Next to the man.

8 Q Next to the man? So that you were pretty close?

9 I mean, you weren't any distance away from each other?

10 A No.

11 Q And in which direction did you see the man walk?

12 A Can't recall.

13 Q You don't know whether he went to the right or to
14 the left or straight ahead? You don't recall?

15 A No, I don't.

16 Q Do you recall how far he had to walk?

17 A No.

18 Q You say in your report that he went to another man.

19 Where was this other man standing or sitting or
20 whatever he was doing?

21 A He was in, like, a little -- like in a manager's
22 office (indicating).

23 Q Where is the manager's office, so-called manager's
24 office with respect to the entrance to the store?

25 A Can't recall where it was, exactly where it was.

2 Q What made you so sure, then, that he even went to
3 another man?

4 A Because I saw him.

5 Q And you were able to look through and see where he
6 was going from where you were standing near the front of the
7 vegetable counter?

8 A Yes.

9 Q Do you recall what kind of vegetables there were at
10 that section where you were standing?

11 A I recall there were vegetables.

12 Q And from where you were standing you were able to
13 tell that the man he went to was forty-five years old?

14 A Not exactly. I said he was forty-five approximately,
15 forty-five years old.

16 Q And you were able to tell he was 300 pounds, he
17 weighed 300 pounds from where you were standing?

18 A Oh, yes.

19 Q And you can't even remember how far he walked to
20 get to that man?

21 A No, can't remember exactly how far, but it was not
22 too far.

23 Q The man that you talked to, what was he like?

24 A He was around fifty-five years old, had black and
25 gray hair.

2 Q And where was he working -- or was he working there
3 or just standing around?

4 A He was at the vegetable counter.

5 Q What was he doing there? Was he standing there?

6 A He was working, because we bought some fruit and he
7 served us.

8 Q You bought fruit on that day?

9 A I don't know if it was the 30th, but I know we
10 bought fruit.

11 Q Show me on the list of stuff that you bought on the
12 30th of May --

13 A Excuse me.

14 Q -- any fruit? Show me where there is fruit on
15 there.

16 A Excuse me. Excuse me. I didn't buy the fruit,
17 Mrs. Oliveras bought the fruit.

18 Q You didn't buy it, now Mrs. Oliveras bought it?

19 A Yes.

20 Q When you came back to Mr. Ricks in his car, did he
21 check the items with you?

22 A Yes.

23 Q He took them out of the bag?

24 A Yes.

25 Q And where did he put that bag?

2 A After he got through?

3 Q Yes.

4 A In the trunk in the back of the car.

5 Q He did that every time you came with a package or
6 did he leave it in the car where the people sit?

7 A No. Well, after he wrote it down and everything,
8 he put it in the trunk.

9 Q Did he ask you for a tape on this occasion on
10 May 30th?

11 A No.

12 Q Did Mr. Ricks go back into the store after you told
13 him about this man giving money to Ruth Oliveras?

14 MR. SALERNO: Objection.

15 Q Did he go back into the store?

16 MR. SALERNO: There is no foundation for the
17 statement that he was ever in the store once.

18 MR. GURSKY: I am asking her.

19 MR. SALERNO: The question is did he go back to
20 the store.

21 THE COURT: You are assuming something.

22 MR. GURSKY: I am sorry, I will reframe it.

23 Q Did he go into the store after you told him about
24 this incident?

25 A What incident?

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2 Q Where this man gave some money, you said, to Ruth.

3 A No.

4 MR. GURSKY: No further questions.

5 THE COURT: Any redirect?

6 MR. SALERNO: No, your Honor.

7 THE COURT: All right.

8 (Witness excused.)

9 THE COURT: We will adjourn to tomorrow morning
10 at eleven o'clock in this courtroom.11 MR. POTTER: Your Honor, I don't know whether
12 Mr. DeMartino will need the stamp which we have marked as
13 Defendant's Exhibit B for identification. We have no
14 objection if the clerk of the Court would make a facsimile
15 of what the stamp prints and let Mr. DeMartino take it home
16 in case he needs it.

17 Do you need it?

18 MR. GURSKY: He can use it.

19 THE COURT: What do you want to do?

20 MR. POTTER: If the clerk will just make a
21 facsimile of what the stamp prints, that will be suffi-
22 cient for our purposes.

23 (Continued next page.)

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2 THE COURT: All right. Eleven o'clock tomorrow
3 morning.

4 MR. POTTER: Thank you, your Honor.

5 (Adjournment taken to December 12, 1974,
6 at 11:00 a.m.)

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2 SCHUYLER MARKET, INC. and
3 NATALE DeMARTINO

4 vs.

74 Civ. 4251

5 EARL BUTZ, Secretary of
6 Agriculture

7 December 12, 1974
8 11 a.m.

9 (Trial resumed.)

10 THE CLERK: Schuyler Market, Inc. versus Earl
11 Butz.

12 Plaintiffs ready?

13 MR. GURSKY: Yes, your Honor.

14 THE CLERK: Defendants ready?

15 MR. POTTER: The defendants are ready.

16 THE COURT: I gather we finished with Mrs. Cabassa.

17 MR. POTTER: We have, your Honor.

18 The Government will now call Mrs. Ruth Oliveras.

19 RUTH D. OLIVERAS, called as a
20 witness by the Government, having first been duly
21 sworn, was examined and testified as follows:

22 xxx 22 (Defendant's Exhibits G through L marked
23 for identification.)

24 DIRECT EXAMINATION

25 BY MR. POTTER:

2 Q Mrs. Oliveras, in May and June of 1973, did you
3 perform services for the Department of Agriculture?

4 A Yes, I did.

5 Q Were you employed as an investigative aide?

6 A Yes.

7 Q Did you perform your services on a full or a part-
8 time basis?

9 A Part-time basis.

10 Q Mrs. Oliveras, do you know or have you ever heard
11 of the Schuyler Market, which does business as Pioneer?

12 A Yes, I have.

13 Q Do you know where that is located?

14 A 689 Columbus Avenue.

15 Q Is that in New York?

16 A Yes.

17 Q In May and June of 1973, did you have occasion to
18 shop at the Schuyler Market?

19 A Yes, I did.

20 Q Do you recall what dates you shopped at the market?

21 A May 23rd, May 24th, May 29th, May 30th, June 4th
22 and June 6th.

23 Q Mrs. Oliveras, on May 23, 1973, when you went to
24 the Schuyler Market, who was with you?

25 A Mr. Dave Ricks, Mrs. Nydia Cabassa.

2 Q Anybody else?

3 A Jeffrey Schaffler.

4 Q Are Mr. Ricks and Mr. Schaffler, to your knowledge,
5 employed by the Department of Agriculture?

6 A Now?

7 Q Yes.

8 A Mr. Schaffler is.

9 Q And what is his job?

10 A He is an agent.

11 Q And what was Mr. Ricks' job in May of 1973?

12 A An agent.

13 Q What happened? Did you drive to the vicinity of
14 the Schuyler Market?

15 A Yes.

16 Q And what happened when you got to the vicinity of
17 the Schuyler Market?

18 A We leave -- the agent show us whe : we got to go
19 on the first day, then we got to leave our possessions with
20 the agent. He would furnish me with food stamps and I going
21 into the store.

22 Q On May 23rd, when you went into the store, the
23 Schuyler Market, what did you do?

24 A Well, I took a cart, shop around for ineligibles and
25 eligibles and after I finish my shopping, I went to the counter

2 and pay with food stamps and went back to the car.

3 Q When you went back to the car, what did you do?

4 A I handed the agent the groceries that I had bought,
5 we took them out of the bag, we mark the ineligibles and
6 eligibles on a statement and after he mark it I read the
7 statement and I signed it.

8 Q When you signed that statement on May 23rd, was
9 that statement true, to the best of your knowledge?

10 A Yes.

11 Q I show you a document which has been marked
12 .Defendant's Exhibit G for identification.

13 Can you identify that document?

14 (Handing.)

15 A Yes.

16 Q Does your name appear on that document?

17 A Yes.

18 Q Did you sign that document?

19 A Yes.

20 Q Miss Oliveras, do you have any independent recollec-
21 tion without reading this document of the items that you
22 purchased in that store?

23 A No.

24 Q I ask you whether the items that you purchased are,
25 in fact, listed on page 2 of Exhibit G for identification?

2 THE COURT: Don't you think you ought to ask
3 her whether she read the document before she signed it?

4 MR. POTTER: I believe the witness testified
5 that she did, your Honor, but I will ask the question.

6 THE COURT: She read it?

7 MR. POTTER: Yes, your Honor.

8 THE COURT: I didn't hear her say she read the
9 document before she signed it.

10 Q Mrs. Oliveras, did you read that document before you
11 signed it?

12 A Yes.

13 Q And when you signed it, was that document true, to
14 the best of your knowledge?

15 A Yes.

16 Q Are the items which you purchased listed on page 2
17 of Defendant's Exhibit G for identification?

18 A Yes, they are.

19 Q Without this document in front of you, can you
20 recall what those items are? Do you have any recollection at
21 this time as to what those items are?

22 A No.

23 MR. POTTER: Your Honor, I would respectfully
24 offer Defendant's Exhibit G for identification.

25 MR. GURSKY: I will object to it, your Honor,

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2 on the ground that this is a document signed by her with-
3 out the presence of the defendant. I don't see how this
4 particular document can be binding on the defendant or
5 even admissible for that purpose.

6 THE COURT: The witness says that she read it
7 and it was true at the time she read it, she can't recall
8 without looking at that and that is the best evidence and
9 I will admit it.

10 MR. POTTER: Thank you, your Honor.

11 MR. GURSKY: I respectfully except.

12 (Defendant's Exhibit G for identification
13 received in evidence.)

14 BY MR. POTTER:

15 Q Mrs. Oliveras, I believe you testified you next went
16 to the store on May 24, 1973?

17 A Right.

18 Q Did the same procedures take place on your visit on
19 May 24, 1973?

20 A Yes.

21 Q Did you go into the store on that day with food
22 coupons?

23 A Yes.

24 Q Were those your own food coupons or were they food
25 coupons that had been given to you by one of the agents?

2 A They were given to me by the agent.

3 Q Did you ever carry any of your own food coupons into
4 the store?

5 A No.

6 Q What did you do when you went into the store on
7 May 24th?

8 A I took a cart, shop around for ineligibles and
9 eligibles. I went to the cashier, pay for the grocery with
10 food stamps and went back to the car.

11 Q When you went to the checkout counter, where were
12 the food stamps?

13 A In my hand.

14 Q On May 24th, to your knowledge, did the clerk refuse
15 to sell you any ineligible items?

16 A Only the beer.

17 Q In other words, you had put beer in your cart and
18 the clerk refused to sell you the beer?

19 A Yes.

20 Q After you left the store, what did you do?

21 A I went back to the car to the agent, we take out the
22 groceries out of the bag, we mark it -- he marks the ineli-
23 gibles and eligibles on a statement. After he made the
24 statement, I read it and I signed it.

25 Q When you signed the statement, was it true, to the

2 best of your knowledge?

3 A Yes.

4 Q And this statement had been prepared right after you
5 left the store?

6 A Right after I got into the store -- into the car.

7 Q I show you a document which has been marked
8 Defendant's Exhibit H for identification, and ask you whether
9 you can identify that document?

10 A Yes.

11 Q Does your signature appear on that document?

12 A Yes.

13 Q Is that the document that you signed on May 24,
14 1973, after you left the store?

15 A Yes.

16 Q I direct your attention to page 2 of that document.

17 Q Do we have listed on page 2 of that document the
18 items that you purchased in the store?

19 A Yes.

20 Q Do you have any independent recollection of the
21 items that you purchased on that day?

22 A No.

23 Q Would you read to yourself the items that are
24 listed on page 2 of that exhibit.

25 May I have it?

2 A Yes.

3 (Handing.)

4 Q Having read what is marked Defendant's Exhibit H
5 for identification, Mrs. Oliveras, can you testify as to what
6 items you purchased on that day? Do you remember now what
7 they were?

8 A Yes.

9 Q How many of them do you remember, Miss Oliveras?

10 A One mug, Pioneer aluminum foil, Old English
11 furniture oil, and I can't remember the rest.12 Q You don't remember what the other items were that
13 you purchased?

14 A No.

15 MR. POTTER: Your Honor, I respectfully offer
16 Defendant's Exhibit H for identification.

17 MR. GURSKY: For identification?

18 THE COURT: For identification?

19 MR. POTTER: Into evidence, your Honor.

20 THE COURT: He is offering it in evidence.

21 MR. GURSKY: I make the same objection.

22 THE COURT: Same objection. Same ruling.

23 xxx 23 (Defendant's Exhibit H for identification
24 received in evidence.)

25 Q Mrs. Oliveras, you testified you also visited the

2 store on May 29, 1973; is that correct?

3 A Yes.

4 Q Who went with you to the store on May 29, 1973?

5 A Into the store?

6 Q With you to the store.

7 A I went by myself.

8 Q Did you go to the area of the store with an agent of
9 the Department of Agriculture?

10 A Yes.

11 Q What happened before you went in the store?

12 A Well, I leave my pocketbook and my money with the
13 agent. He furnish me with food stamps and I go into the store.

14 Q When you went into the store, what did you do?

15 A Well, I took a cart, shop for eligibles and
16 eligibles, went to the counter and pay for the groceries with
17 food stamps.

18 Q And what did you do after you paid for these items
19 with food stamps?

20 A I went back to the car.

21 Q And what happened after you got back to the car?

22 A We once again marked -- take the groceries out of
23 the bag, mark -- the agent mark on the statement the ineli-
24 gibles and eligibles and after he fill out the papers I read
25 them and I sign them.

2 Q When you signed that statement on May 29, 1973, was
3 that statement true to the best of your knowledge?

4 A Yes.

5 Q And you had read the statement?

6 A Yes.

7 Q And when had that statement been prepared?

8 A Well, after I got into the car.

9 Q I show you a document which has been marked
10 Defendant's Exhibit I for identification, and ask you whether
11 you can identify that document?

12 A Yes.

13 Q Does your signature appear on that document?

14 A Yes.

15 Q Is that the document that you signed after you left
16 the store on May 29, 1973?

17 A Yes.

18 Q I call your attention to page 2 of the exhibit, and
19 ask you whether on that page are listed the items which you
20 purchased in the store? Are those the items you purchased in
21 the store?

22 A Yes.

23 Q Without this document in front of you, Miss Oliveras,
24 having read it, can you testify as to all of the items you
25 purchased on that day? Do you have any knowledge right now

2 as to all of the items that you purchased in the store?

3 A Yes.

4 Q You know all of them?

5 A Not all of them.

6 Q Do you know some of them?

7 A Yes.

8 Q What items do you recall, having read this document,
9 that you purchased on that day?

10 A A mophead, Ivory liquid, Selecto bowl brush. That's
11 all I can remember.

12 Q Once again, when you signed this document on May 29,
13 1973, was it true, to the best of your knowledge?

14 A Yes.

15 MR. POTTER: Your Honor, I respectfully offer
16 Defendant's Exhibit I for identification into evidence.

17 THE COURT: Any objection?

18 MR. GURSKY: I make the same objection.

19 THE COURT: Same ruling.

xxx 20 (Defendant's Exhibit I for identification
21 received in evidence.)

22 Q Mrs. Oliveras, did you proceed to the Schuyler
23 Market on May 30, 1973?

24 A Yes.

25 Q Who was with you on May 30, 1973?

2 A Mr. Dave Ricks, Mrs. Nydia Cabassa and Mr. Jeff
3 Schaffler.

4 Q What happened prior to your going into the store on
5 May 30, 1973?

6 A We leave the bag with the agent and he furnish us
7 with food stamps.

8 Q How many food stamps, if you recall, did the agent
9 give you on May 30, 1973?

10 A \$30.

11 Q Were you given those food stamps for a particular
12 purpose?

13 A Yes.

14 Q What was that purpose?

15 A To sell them.

16 Q To sell them to whom?

17 A To somebody in the store.

18 Q And at what price were you to sell the \$30 worth of
19 food stamps?

20 A Half the price.

21 MR. GURSKY: I object to this. I assume this
22 is conversation which must have been had either with the
23 agent or somebody else. I move to strike it.

24 THE COURT: Did you try to sell the stamps?

25 THE WITNESS: Yes.

2 THE COURT: Tell us about it.

3 A I went to this guy named Joe. He told me his name
4 is Joe. And I ask him if he knew of anybody who would like
5 to buy my food stamps. He told me he will sell them for me.

6 He went to another guy who was standing at the
7 other end of the store and he offer him the food stamps, the
8 other guy bought it from him, he came back to me and told me,
9 "Here, I sold your food stamps," and he gave me \$15 in return
10 for the food stamps that I had --

11 THE COURT: Who is Joe?

12 THE WITNESS: He is a guy that was working there
13 on the vegetable stand.

14 THE COURT: The vegetable stand?

15 THE WITNESS: Yes.

16 Q Would you describe this gentleman that you have
17 identified as Joe, Mrs. Oliveras?

18 A Well, I say he is about fifty-five years old, about
19 165 pounds, gray hair with a long nose.

20 Q Was anyone present with you at the time that these
21 events took place?

22 A Yes.

23 Q Who was there?

24 A Mrs. Nydia Cabassa.

25 Q When was the next time that you went to the store,

2 Mrs. Oliveras?

3 A June 4th.

4 Q Who was with you on June 4th?

5 A Mr. Dave Ricks and Mr. Schaffler.

6 Q Will you tell the Court what happened prior to your
7 going --8 THE COURT: How much money did she get for the
9 food stamps?10 MR. POTTER: The witness testified she received
11 \$15, your Honor.12 Q Would you tell the Court what happened prior to your
13 going into the store on June 4, 1973?14 A We have to leave -- I left my pocketbook with the
15 agent and he furnish me with \$120 worth of food stamps.

16 THE COURT: How much?

17 MR. POTTER: \$120, your Honor.

18 THE COURT: This is on June 4th?

19 MR. POTTER: June 4th, your Honor.

20 THE COURT: What is Exhibit J?

21 MR. POTTER: I did not offer that in evidence,
22 your Honor.

23 THE COURT: All right.

24 Q You stated that you were given \$120 worth of food
25 stamps by the agent?

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2 A To discount.

3 Q Were you given any other food coupons?

4 A Yes, an extra \$10 to buy.

5 Q Did you go into the store on June 4, 1973?

6 A Yes, I did.

7 Q And what did you do after you got into the store?

8 A I first you know, tried to shop, tried to get
9 eligibles and in eligibles, I went to the counter, paid for
10 my groceries, then I went to the man who I bought the stamps
11 from, Joe before, and I asked him if he wanted to buy any more
12 food stamps.

13 Q Did he say anything to you?

14 A Yes. He says how much I have and how much I wanted
15 for them. I told him I had \$120 and I want \$60 for them.

16 Q And what happened then?

17 A He agreed to give me the \$60 and he told me any time
18 I have any more food stamps to go to him, that he will be glad
19 to buy them from me.

20 Q What happened after those events took place?

21 A I went back to the car.

22 Q What did you do when you got back to the car?

23 A I gave the agent the money plus the groceries that
24 I had bought there, we mark the groceries once again on the
25 statement and he put down how much money I receive for the

2 food stamps. So after I gave him the money, he puts the money
3 in an envelope, he put the file number, the name of the store,
4 the time and he signed it and sealed the envelope and then I
5 will read the statement again and I signed it.

6 Q You say on that day, June 4th, that you signed a
7 statement which had been prepared by the agent; is that
8 correct?

9 A Yes.

10 Q Did you read that statement before you signed it?

11 A Yes.

12 Q And was that statement true, to the best of your
13 knowledge, when you signed it?

14 A Yes.

15 Q I show you a document which has been marked
16 Defendant's Exhibit K for identification, and ask you whether
17 you can identify that document?

18 A Yes.

19 Q Does your signature appear on that document?

20 A Yes.

21 Q Did you sign that document on June 4, 1973?

22 A Yes, I did.

23 Q And when you signed it, was that statement true?

24 A Yes.

25 Q I call your attention to page 2 of the statement in

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2 your hand, and ask you whether the items which you purchased
3 on that day are listed on page 2 of that statement?

4 A Yes, they are.

5 Q Would you read those items to yourself.

6 (Pause.)

7 Q Have you read them?

8 A Yes.

9 Q Could you, without this document in front of you and
10 having read it, can you tell what ineligible items you pur-
11 chased on that day?

12 A One can of Easy-Off oven cleaner, one bottle of dish
13 detergent and a can of Welch's grape drink.

14 Q Was the Welch's grape drink an ineligible or an
15 eligible item?

16 A Eligible item.

17 Q Mrs. Oliveras, at the time that you say you sold the
18 food stamps to an individual in the store, did you speak with
19 him at that time?

20 A Yes, I did.

21 Q And what did you say to him and what did he say to
22 you?

23 THE COURT: She has been through this.

24 A Well, I asked him if he wanted to buy my food stamps.
25 He said he would buy it from me.

2 THE COURT: Is this the \$120 transaction?

3 MR. POTTER: Yes.

4 THE COURT: She has already testified about it.

5 MR. POTTER: All right, your Honor. Thank you.

6 Your Honor, I respectfully offer Defendant's
7 Exhibit K for identification into evidence.

8 MR. GURSKY: Same objection.

9 THE COURT: Same ruling.

xxx 10 (Defendant's Exhibit K for identification
11 received in evidence.)

12 THE COURT: Is there anything in this report
13 which deals with the sale of \$120 in food stamps?

14 THE WITNESS: Yes, your Honor.

15 THE COURT: Do you have the envelope which she
16 testified she had the initials on and the money?

17 MR. POTTER: I believe the witness testified
18 the agent put his initials on it.

19 Mrs. Oliveras, did you put your name or initials on
20 the envelope in which the agent put the money?

21 A No.

22 Q Mrs. Oliveras, did you return to the store on
23 June 6, 1973?

24 A Yes, I did.

25 Q Who went with you on June 6, 1973?

2 A Agent Dave Ricks.

3 Q What happened when you got to the store on June 6,
4 1973?

5 A I leave my pocketbook with the agent and he furnish
6 me with \$180 worth of food stamps.

7 Q Did you go into the store?

8 A Yes, I did.

9 Q And what did you do once you got into the store?

10 A I once again went to the same man who had bought the
11 food stamps from me before and I asked --

12 THE COURT: You went to the same man?

13 THE WITNESS: Yes, the same man that I went
14 on June 4th.

15 THE COURT: All right.

16 Q Would you describe that man, please?

17 A Well, he was about six feet-two inches tall, about
18 300 pounds, but that time he had long hair, black long hair
19 parted in the middle.

20 Q And what happened when you saw that man on June 6,
21 1973?

22 A I went to him and I asked him if he wanted to buy
23 food stamps. He told me he will buy them.

24 He gave me \$90 for the food stamps.

25 Then I ask him if I get any more food stamps in any

2 other occasion if he will buy them from me. He told me that
3 he wish there were no stalling, because he knew I was trying
4 to get rid of them.

5 Q And what happened after these events took place?

6 A I went back to the car to the agent, he puts the
7 money in an envelope, he makes out the statement, I read the
8 statement and I signed it.

9 MR. POTTER: I have no more questions of this
10 witness, your Honor.

11 THE COURT: You may cross-examine.

12 CROSS-EXAMINATION

13 BY MR. GURSKY:

14 Q When were you born, Mrs. Oliveras?

15 A October 7, 1943.

16 Q And are you married?

17 A Separated.

18 Q Do you have any children?

19 A One.

20 Q How old is that child?

21 A Eleven.

22 Q He was eleven in 1973, too?

23 A No. Now he's eleven.

24 Q Do you live in Hoboken, too?

25 A Yes.

2 Q And you are a neighbor next door or you were
3 neighbors next door to Cabassa?

4 A Yes.

5 Q Did you ever fill out a questionnaire or personnel
6 application to the Department of Agriculture?

7 A No.

8 Q Did you ever fill out any kind of a form where they
9 asked you about your background, your family or your schooling
10 or experience?

11 A No.

12 Q Who was it that hired you to work for the Department
13 of Agriculture?

14 A The first time that I met the agent, it was Joe
15 Stutz, I don't remember the last name of the other agent, his
16 name is Pete, and the other one is Smith, Smitty they used to
17 call him.

18 Q In other words, just some agent? You didn't fill
19 out a form at any office of the Department of Agriculture?

20 A No.

21 Q And you didn't have to sign or fill out any kind of
22 a paper for the agent himself that hired you?

23 A No.

24 Q Were you present when Nydia Cabassa was hired?

25 A Yes.

2 Q And was she hired by an individual agent, too?

3 A The same person.

4 Q And did she, in your presence, fill out any kind of
5 a form?

6 A No.

7 Q Giving references or anything like that?

8 A No.

9 Q And you gave no references?

10 A No.

11 THE COURT: How did you meet these agents?

12 THE WITNESS: A corporation named Paco called
13 me through the telephone and asked me if I wanted to work,
14 so I told Mr. Rivera -- he was the one that called me --
15 I told him yes, I was able to work, you know.

16 Then right away, about ten or fifteen minutes
17 later the three agents came and picked me up in front of
18 my house.

19 Q At that time were you on welfare with the City of
20 Hoboken?

21 A Yes.

22 Q And are you still on welfare?

23 A Yes.

24 Q And you are a recipient of food stamps?

25 A Yes.

2 Q So that you get your food stamps in the City of
3 Hoboken; is that right?

4 A Yes.

5 Q How many stores do you generally visit during a day
6 when you work for the Department of Agriculture?

7 A Five or six.

8 Q And generally are the stores told to you in advance
9 where you are going to go during that day?

10 A No.

11 Q Does the agent have a list of the stores? Did you
12 ever see the agent have a list of the stores that he has to
13 go to?

14 A Yes, yes, they do.

15 Q Did he ever show you that list?

16 A Well, whenever we would go to the store, he takes
17 out the file and he has the name and address written on the --

18 Q You mean before you got to the store he told you
19 what store you are going to next?

20 A Yes, yes.

21 Q How do you get paid by the Department of Agriculture?

22 A By the hour.

23 Q Do you have to fill out a voucher or some kind of a
24 paper before you get paid?

25 A No, he does and I signed it.

2 Q You mean the agent you work with?

3 A Yes.

4 Q How often does he fill that paper out?

5 A Every day.

6 Q You mean at the end of the day?

7 A Yes.

8 Q And you sign it after he fills it out?

9 A Yes.

10 Q And that states the number of hours?

11 A Yes.

12 Q How do you get paid, by the hour?

13 A By the hour.

14 Q Do you get a check from the Department of Agriculture?

15 A No, I get cash.

16 Q You get cash?

17 A Cash money.

18 Q Who gives you the cash?

19 A He does.

20 Q The agent does?

21 A Yes.

22 Q So, in effect, you could be working just for the
23 agent rather than the Department of Agriculture, isn't that
24 true?

25 A No, I'm working for the Department of Agriculture,

2 no for the agent.

3 Q If the agent pays you in cash, how does the
4 Department of Agriculture know that you are working for them?

5 MR. POTTER: Objection, your Honor.

6 THE COURT: Sustained.

7 Q Is that true of Nydia Cabassa, too?

8 MR. POTTER: Objection.

9 Q Is that the way she works, if you know?

10 A What was the question?

11 Q Do you know, does Nydia Cabassa work the same way?

12 A Yes.

13 THE COURT: How much do you get paid by the hour?

14 THE WITNESS: Well, now I'm getting paid \$3 an
15 hour.

16 THE COURT: \$3 an hour?

17 THE WITNESS: Yes.

18 THE COURT: How much did you get paid a year ago
19 when this happened, 1973?

20 THE WITNESS: \$3 I was getting.

21 THE COURT: \$3 an hour?

22 THE WITNESS: Yes.

23 Q Did you receive any W-2 form or withholding or any
24 kind of paper showing how much tax is supposed to be deducted
25 from your pay for doing this work?

2 A No, no.

3 Q You never got any kind of a form?

4 A No.

5 Q And you never reported to the Welfare Department
6 how much you earned, either?

7 A No.

8 Q As far as you know, is that true of Mrs. Cabassa,
9 too?

10 MR. POTTER: Objection, your Honor.

11 Q As far as you know?

12 A The same way, yes.

13 Q When Mr. Potter a few minutes ago asked you about
14 the dates that you visited the Schuyler Market, I noticed that
15 you remembered every single date without referring to any
16 paper whatsoever. As a matter of fact, your memory today
17 ordinarily, without referring to a paper --

18 THE COURT: You are getting argumentative. Put
19 questions to her.

20 MR. GURSKY: All right. I am sorry. I will
21 withdraw it, Judge.

22 Q Did you refer to any paper before you came to Court
23 this morning about the dates that you were at the store?

24 A What do you mean did I refer?

25 Q Did you read it on any paper, on your reports, for

2 instance, the various exhibits that were offered in evidence
3 this morning, the dates when you went to the store?

4 A If I read it before?

5 Q Yes, before today.

6 A Yesterday.

7 Q You read it yesterday?

8 A Yes.

9 Q And you remembered it as of this morning?

10 A The dates? Yes.

11 Q If you had not read any of those reports yesterday,
12 you might not have remembered these dates, would you?

13 MR. POTTER: Objection, your Honor.

14 Q Would you have remembered these dates if you had not
15 read these reports yesterday?

16 A Well, I doubt it.

17 Q And you wouldn't have remembered what was in those
18 reports, either, would you?

19 MR. POTTER: Objection, your Honor.

20 THE COURT: Sustained.

21 Q Do you recall having been examined before trial on
22 November 6, 1974 in Mr. Potter's office?

23 A Yes.

24 Q I was there and I asked you some questions?

25 A Yes.

2 Q I ask you --

3 MR. GURSKY: Your Honor, I am sorry, you may
4 want the original.5 Q Referring to page 14, "On the 23rd day of May, 1973,
6 did anyone else go along with you and Mr. Ricks?"

7 A Yes.

8 Q Answer, "Yes."

9 Page 15.

10 Question, "Did they go by car?"

11 Answer, "By car."

12 Question, "Who else went with you?"

13 Answer, "Nydia Cabassa."

14 Question, "Was she the only one besides yourself and
15 Mr. Ricks?"

16 Answer, "Yes."

17 Did you make those answers to those questions on
18 that day?

19 A Yes.

20 Q And you didn't mention Mr. Schaffler at all then,
21 did you?

22 A I didn't remember.

23 Q And in your report of May 23rd --

24 MR. GURSKY: May I have the original of that
25 May 23rd report?

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2 MR. POTTER: It is right up there (indicating).

3 Q That is Defendant's Exhibit G.

4 Is there anything at all that you can show me in
5 this report where Mr. Schaffler was there, too?

6 A It does not say it here.

7 Q It does not say it?

8 A No.

9 Q As a matter of fact, that is true of the report of
10 May 24th, Mr. Schaffler is not mentioned there, either, is he?

11 A No.

12 Q And that is what you said in the examination before
13 trial on November 6th?

14 A Yes.

15 Q On page 15, did you make this answer to the
16 following question:17 "Did you work with anyone else that day besides
18 Mr. Ricks?"

19 Answer, "No."

20 "And Mrs. Cabassa?"

21 Answer, "No."

22 Did you make those answers to those questions?

23 A On May 23rd I worked with -- I must have been con-
24 fused if I say Mrs. Cabassa was not with me, because she was
25 with me.

2 Q No. You say that she was with you, but you don't
3 say anything about Mr. Schaffler.

4 The question was -- I will take one question at a
5 time -- "Did you work with anyone else that day besides Mr.
6 Ricks?"

7 Answer, "No."

8 You made that answer to that question, did you not?

9 A Yes.

10 Q Then I added, "And Mrs. Cabassa?"

11 And your answer was, "No."

12 Is that correct?

13 A Yes.

14 Q Page 17, line 3, did you make this answer to these
15 questions?

16 Question, "When you say you gave him your pocket-
17 book," referring to Mr. Ricks, "you mean a lady's purse?"

18 Answer, "Uh-huh."

19 Did you make that answer to that question?

20 A Yes.

21 Q Did you have any money in the purse?

22 A Yes. That is why we left it with him.

23 Q Did you make that answer?

24 A Yes.

25 Q And did you count the money?

2 A No.

3 Q The answer, "No."

4 You made that answer?

5 A Yes.

6 Q "Before you gave him the purse?"

7 Answer, "No, because we left them there. He did not
8 touch it. We trusted him."

9 You made those answers to those questions?

10 A Yes.

11 Q On that day, were you wearing slacks or pants?

12 A Yes.

13 Q And did you empty your pockets or did Mr. Ricks ask
14 you to empty your pockets on that day before you went into the
15 store?

16 A No, because I didn't have nothing in my pockets.

17 Q But he didn't ask you to empty the pockets?

18 A No.

19 Q When you came back from the store and entered into
20 the car, did he ask you to empty your pockets?

21 A No.

22 Q How many checkout counters do you remember the
23 store had?

24 A I'm not too sure, but I think they only had two.

25 Q And that is the answer you gave on the examination

2 before trial, didn't you? Do you remember that?

3 A I think I did say two in there.

4 Q Page 22, line 18.

5 "Was there more than one clerk in the store at the
6 time?"

7 Answer, "You mean on the registers?"

8 Question, "Yes, along the checkout counters."

9 Answer, "I think there were two."

10 Question, "Do you recall how many checkout counters
11 there are altogether?"

12 Answer, "I'm not so sure, but I think they have
13 two."

14 And that is still your present recollection?

15 A Yes.

16 Q In connection with your report on the 23rd of May,
17 do you remember answering these questions on page 21, line 21.

18 "I call your attention to about the 8th line from
19 the bottom of the first page, and which I read as follows:
20 'I did not have any cash in my possession.'

21 "Did you have any cash at all before you went into
22 the store in your purse?"

23 Answer, "Before?"

24 Question, "Yes."

25 Answer, "Before I went into the store?"

2 Question, "Yes."

3 Answer, "Yes."

4 Question, "And when you said about four lines from
5 then or three lines before then, 'I surrendered to agent
6 Ricks all my cash,' you made no notes of how much cash you
7 had in there?"

8 Answer, "No."

9 Did you make those answers to those questions?

10 A Yes.

11 Q Then in other words, you did have some money on you
12 on the 23rd, is that true?

13 A Before I entered the store?

14 Q Yes.

15 A Or after I came out of the store?

16 Q No, before you entered the store.

17 A Yes, but I left it with the agent.

18 Q But you had money in your bag?

19 A Yes, I did.

20 Q Did you have any money elsewhere?

21 A No.

22 Q Page 23, did you make the following answers to these
23 questions, line 2.

24 "And how many visits had you made to the store, in-
25 cluding May 23, 1973? That was your first visit; is that

2 right?"

3 Answer, "Yes, right."

4 Is that correct?

5 A Yes.

6 Q Question, "How many visits did you make after that?"

7 Answer, "I think it was eight or nine. (The witness
8 examines)" Referring to some papers or reports which you had
9 in front of you at that time. Is that correct?

10 A Yes.

11 Q "Mr. Gursky: May the record show that the witness
12 is fingering what appears to be copies of reports which she
13 characterized as having been given to her by Mr. Potter."14 Question, "Now, without looking at these reports,
15 do you have any recollection of what the checkout clerk looked
16 like?"

17 Answer, "Without looking at them?"

18 Question, "Yes, without looking at the report."

19 Answer, "I remember it was a colored lady, a
20 colored girl. She had a few bracelets on her arms. She was
21 young."

22 Is that correct? Is that the answer you gave?

23 A Yes.

24 Q Then down at line 23, question, "Was your recollec-
25 tion of it refreshed before you looked at this report?"

2 Answer, "Yes."

3 Is that correct?

4 A Yes.

5 Q Page 24, did you make this answer to this question:

6 "Well, would you have remembered the description of
7 this clerk without first having looked at this report that you
8 had made?"

9 Answer, "No, I don't think so."

10 Do you remember giving that answer?

11 A Yes.

12 Q I show you Defendant's Exhibit G, a report for
13 May 23, 1973 --

14 MR. POTTER: What exhibit is that, Mr. Gursky?

15 MR. GURSKY: Exhibit G.

16 Q I ask you if under the cost column N.M means no mark
17 to you?

18 A Right, it means no mark.

19 Q That means there was no price?

20 A No price on the item.

21 Q When you took the merchandise to the checkout
22 counter, did you ask how much the price was?

23 A No..

24 Q Did you get a tape from the cashier?

25 A No that I remember.

2 Q You have been in the store, according to your
3 reports, six different times.

4 Did you notice that the customers were getting tapes?

5 A No, no that I remember.

6 Q You didn't notice or you don't remember?

7 A I didn't notice if they were given tapes. I didn't
8 notice.

9 Q You didn't pay any attention?

10 A No.

11 Q And when you came back to Mr. Ricks in the car, did
12 you and Mr. Ricks go over the figures to add to see if they
13 were right?

14 A No.

15 Q As a matter of fact, if you add those figures, you
16 find that you are a dollar and a quarter short, won't you?

17 A I don't know.

18 MR. POTTER: Objection.

19 THE COURT: Are you asking her to add it?

20 MR. GURSKY: Yes, your Honor.

21 THE COURT: The exhibit speaks for itself.

22 MR. GURSKY: All right.

23 Q Page 25, line 19, we are talking about this no mark
24 item on the Pepsi-Cola.

25 "How much was it?"

2 Answer, "About \$1.25 I can tell because that is how
3 much they charge there because they didn't have no mark."

4 Question, "But you had to account for it, didn't
5 you?"

6 Answer, "What was that again?"

7 Question, "You had to account for your stamps when
8 you came back to Mr. Ricks, didn't you?"

9 Answer, "No."

10 Did you make that answer to that question?

11 A Yes.

12 Q Question, "You didn't have to account for it?"

13 Answer, "No."

14 You made that answer to that question, didn't you?

15 A Yes.

16 Q Did you make this answer to this question on page
17 26, line 22:

18 Question, "Did you lock in your purse that you had
19 surrendered to him before you had walked in to examine it to
20 see if your contents were all there?"

21 Answer, "No."

22 Is that correct?

23 A Yes.

24 THE COURT: You keep using this deposition to
25 read confirming statements. The only purpose of reading

2 it to her is if it is inconsistent.

3 It is consistent on what she said on direct.

4 MR. GURSKY: What I am showing, Judge, is that she
5 made a general statement rather than specific allegations --

6 THE COURT: You just read a question and answer
7 which confirms what she has already said on the trial. That
8 is not the use of a deposition.

9 MR. GURSKY: As I understood her testimony, she
10 was not asked whether she counted the money before she gave
11 it to Mr. Ricks or her bag before she gave it to Mr. Ricks.

12 THE COURT: She said on the trial here that she
13 didn't and now what you are doing is reading from the
14 deposition, which also says she didn't. It is not an in-
15 consistent statement. You are just wasting time.

16 It is exactly what she said from this witness
17 stand, unless you have some inconsistent statement in that
18 deposition.

19 You pointed one out before that Agent Schaffler
20 was not with her. That is a proper use of it. But giving
21 questions and answers which already confirmed what she said
22 on the stand, I am getting the same testimony twice and it
23 does not add to anything.

24 Q After you came back from the store on each of these
25 occasions, did Mr. Ricks ever go back to the store that same

2 time, after you reported to him and you signed your report?"

3 MR. POTTER: Objection, your Honor.

4 Q Did Mr. Ricks go back into the store?

5 THE COURT: Overruled.

6 MR. POTTER: Your Honor, there is no testimony
7 that Agent Ricks ever went into the store and the question
8 is did he go back.

9 THE COURT: It is the same thing yesterday. He
10 means did he ever see him go into the store.

11 Did you ever see Agent Ricks go into the store?

12 THE WITNESS: Yes.

13 Q Did you ever see Agent Schaffler go into the store?

14 A No.

15 Q You made no notes of the food stamp numbers or any-
16 thing like that before you went into the store?

17 A I?

18 Q Yes.

19 A No.

20 Q Did you buy any vegetables on May 30th?

21 A I'm not too sure. If I did, I don't remember.

22 Q Did you say so in your report of May 30th?

23 THE COURT: There is no May 30th report in
24 evidence.

25 MR. GURSKY: May I have the report?

2 MR. POTTER: Yes, Mr. Gursky.

3 (Handing.)

4 Q I show you Defendant's Exhibit J for identification
5 with a date of May 30th on it.

6 (Handing.)

7 Q Will you show me anything in there which would in-
8 dicate that you bought any goods?

9 A On the 30th?

10 Q Yes.

11 A I didn't shop on the 30th, I only went in there to
12 discount.

13 Q So you didn't buy any vegetables, either?

14 A No, not on the 30th.

15 Q So when Mrs. Cabassa said that you bought vegetables
16 there, she was mistaken?

17 MR. POTTER: Objection.

18 THE COURT: Sustained.

19 Q I show you Defendant's Exhibit I dated the 29th of
20 May, 1973, and ask you to point out the no mark item on there?

21 A One tin pack Marta Elsol.

22 Q Did you ask on that occasion how much that cost?

23 A No.

24 Q And did you get a tape from the clerk?

25 A Not that I remember, no.

2 Q And when you went back to the car, did Agent
3 Schaffler question you about it?

4 A No.

5 Q Did you bother at that time or did Agent Schaffler
6 at that time bother to add up these items?

7 A No.

8 Q Mr. Schaffler didn't go into that store on that
9 occasion, either?

10 A No.

11 Q On any of these six occasions, did either of these
12 agents, either Ricks or Schaffler, ever ask you to empty your
13 pockets?

14 A No.

15 Q And they never looked in your purse?

16 A No that I know, no.

17 Q On the 23rd and the 24th and the 29th of May, when
18 you purchased any merchandise, did you ask the clerks at any
19 time for their names?

20 A No.

21 Q Did you ask anyone else for their names on those
22 occasions?

23 A No.

24 Q What was the occasion that you mentioned a person
25 by the name of Joe? On what date was that?

2 A I think it's on the 30th.

3 Q I show you this report of May 30, 1973. I was
4 wondering where you got the name Joe. I can't seem to find
5 it in here. Can you explain that?

6 A I told you I think it was on the 30th. I didn't
7 give you the right date, I say I think it was on the 30th.

8 Q Did you mention the name Joe in any report?

9 A I think I did, but I don't remember on which one.

10 Q You say you did mention it in one of these reports?

11 A I'm not too sure, but I think I did.

12 MR. GURSKY: Do you have it in any of yours?

13 MR. POTTER: You have it in the one in your hand.

14 MR. GURSKY: Which one is that?

15 Q What did this Joe look like?

16 A I told you, he's about fifty-five years old, about
17 165 pounds, gray hair and a long nose.

18 Q Apparently that is the description you gave on the
19 30th of May without mentioning the name Joe. Is that true?

20 MR. GURSKY: Do you have the 30th of May there?

21 MR. POTTER: Yes.

22 THE COURT: All right, let us go on. We have
23 been at it for a hour here.

24 Q How was Joe dressed at that time?

25 A He had one of those white smocks that they use in

2 the store.

3 Q One of the what?

4 A A smock.

5 Q What color?

6 A White.

7 Q Was he waiting on any customers?

8 A He was on the vegetable stand.

9 Q Well, did you see whether he was waiting on any
10 customers?

11 A At the time that I was there?

12 Q Yes.

13 A Yes, I think I saw him waiting some.

14 Q You think you saw him? You are not sure?

15 A I'm pretty sure I did.

16 Q On these forms of report, there is an item at the
17 bottom of page 2 called duebills.

18 What is that?

19 A That's a paper they give you when they are not
20 supposed to give you cash. In most of the stores they got
21 those papers from one penny up to 49 cents when they give you
22 no cash -- they are not supposed to give you cash, they are
23 supposed to give you those duebills, you know, with the name
24 of the store or the signature of the manager or the clerk or
25 of anybody.

2 Q What is it? Is it just a piece of paper?

3 A A piece of paper saying how much money you got there.

4 Q How big is this piece of paper?

5 A I don't know, because some people got slips, some
6 people have big papers, some people have small papers.

7 Q Do you remember what this was in this store?

8 A No. They all different.

9 Q You did get some duebills on some of these trans-
10 actions, didn't you?

11 A Yes.

12 Q What did you do with those?

13 A I handed them to the agent.

14 MR. GURSKY: No further questions.

15 MR. POTTER: I have no further questions.

16 THE COURT: You may step down.

17 (Witness excused.)

18 THE COURT: Next witness.

19 MR. POTTER: Your Honor, the Government will
20 now call Agent Jeffrey Schaffler.

21

22 J E F F R E Y S C H A F F L E R, called as a
23 witness by the Government, having first been duly
24 sworn, was examined and testified as follows:

25 DIRECT EXAMINATION

2 BY MR. SALERNO:

3 Q Mr. Schaffler, how are you employed?

4 A I am a special agent for the office of the Inspector
5 General, Department of Agriculture.

6 Q How long have you been so employed?

7 A Since May 15, 1973.

8 THE COURT: May 15, 1973?

9 THE WITNESS: Yes, sir.

10 Q Will you describe briefly your duties as a special
11 agent in the office of investigation?12 A I investigate all violations or suspected violations
13 of new rules and regulations coming under the department's
14 jurisdiction.15 Q Did you investigate food stores for violations of
16 regulations governing the food stamp program?

17 A Yes, I have.

18 Q Did you participate in the investigation of
19 Schuyler Market, doing business as Pioneer Market?

20 A Yes.

21 Q What was the nature of that participation?

22 A It consisted of a series of visits to the store
23 where items were purchased and food stamps were sold.24 Q Did you participate in all the visits that were
25 made to Schuyler Market?

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2 A Yes, I did.

3 THE COURT: What were they? What dates were they?

4 Q What were the dates, do you recall?

5 A The 23rd, the 24th, 29th and 30th of May, 1973, and
6 the 4th and 6th of June, 1973.7 Q More specifically, what was your role in this in-
8 vestigation in the early visits?9 A I had just recently started my position as a special
10 agent and I was being bro'en in by the special agent who had
11 the case at the time.12 Q Could you describe what you did on each of these
13 visits?14 A Well, basically, we went to the store. The aides
15 were given a certain number of stamps.

16 Q Before you went to the store did you meet the aides?

17 A Yes, we did. •

18 Q Then what happened?

19 A Well, we would go up to the store and we have a
20 standard procedure that we go through.21 We would issue them stamps, serial numbers for the
22 stamps that they were given would be recorded, they would be
23 instructed to leave behind any personal cash that they had in
24 their possession, they would leave behind their pocketbooks
25 and they were given a set of instructions before they went

2 into the store.

3 Q What was the nature of those instructions?

4 A Basically, they were told what to buy, a combination
5 of what we call eligible and ineligible items, and they were
6 also instructed to stay away from trying to entrap any store-
7 keepers or anything of that nature.

8 Q After the first few visits, did you instruct them to
9 do other things than to attempt to buy ineligible items?

10 A Yes. As the case progressed they were instructed
11 to attempt to sell food stamps at the store.

12 Q Did you give them any instructions with respect to
13 descriptions of persons in the store?

14 A Well, they were given instructions insofar as to
15 come back with a description of whoever they dealt with and,
16 if possible, if they overheard a name or any outstanding type
17 characteristic of the individual to let us know.

18 Q Did you watch the aide enter and leave the store?

19 A Yes.

20 Q Did you ever enter the store yourself?

21 A Not during the course of the transactions, no.

22 Q Did you go later?

23 A I went on June 8th with special agent Ricks when he
24 conducted an interview there.

25 Q Did you give the aides any instructions --

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2 THE COURT: On June 8th you did what?

3 THE WITNESS: On June 8th I accompanied special
4 agent Ricks. He conducted an interview there with the
5 store clerk or store manager or owner, whatever he was.

6 THE COURT: What was his name?

7 THE WITNESS: DeMartino.

8 THE COURT: Go ahead.

9 Q Did you give the aides any instructions with respect
10 to a cash register tape?11 A Well, they were told if they got the tape during the
12 normal course of a transaction to take it, but not to make any
13 conspicuous effort to obtain a sales slip.

14 Q Why were they not to make any conspicuous effort?

15 A Well, the roles that the aides played would be as
16 shoppers and if the sales slip was not given during the normal
17 course of transactions we felt it would arouse suspicion if
18 as food stamp recipients they would demand it, so if it didn't
19 come they were just to let it go.20 Q What would you do? The aide would then return from
21 the store?

22 A Right.

23 Q What would you do?

24 A Well, we would complete the food stamp transaction
25 worksheet which we had partially filled out before they went

2 in and this would give us certain information and then a
3 statement would be taken from them.

4 Q What would you put on it? Are you saying there are
5 two different kinds of reports that you prepare?

6 A There is a food stamp transaction worksheet and
7 there is an actual statement taken, yes.

8 Q What generally would you put on those sheets?

9 A Well, on the transaction worksheet, it would contain
10 things like the name of the store, the file number assigned to
11 it, the address of the store, the date we were there, the
12 serial numbers, if any, of coupons issued, a description
13 of the clerks dealt with and a description of the items pur-
14 chased, things of that nature.

15 THE COURT: Were these reports kept in the regular
16 course of business of the Department of Agriculture and
17 in your job as an investigator?

18 THE WITNESS: Yes.

19 THE COURT: Was it the regular course of business
20 to keep these reports?

21 THE WITNESS: Yes, sir.

22 Q I would like to show you Defendant's Exhibits M, N,
23 O, P, Q and R, and ask you to look over each of them and
24 examine them and tell me what those documents are?

25 A These are the food stamp transaction worksheets.

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2 Q From the Schuyler Market investigation?

3 A Yes.

4 Q Do they reflect each visit made to the store by you
5 and Agent Ricks?

6 A Yes, they do.

7 MR. SALERNO: Your Honor, at this time I respect-
8 fully move into evidence the food transaction worksheets
9 Exhibits M through R.10 MR. GURSKY: I object to them. These are their
11 own worksheets, their own private notes that they made and
12 I don't think they should go in.13 THE COURT: These are documents which they say
14 are kept in the regular course of business and it is in
15 the regular course of business to keep such documents.16 MR. GURSKY: No such documents were offered
17 during the examinations before trial.18 THE COURT: I don't know anything about the
19 examinations before trial. I have a witness here who is
20 identifying them for me and says they are kept in the
21 regular course of business. The objection is overruled.

22 MR. GURSKY: Respectfully except.

23 xxx 23 (Defendant's Exhibits M through R received
24 in evidence.)

25 Q Mr. Schaffler, from these worksheets, can you

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2 identify --

3 MR. GURSKY: Wait. Can I take a look at those?

4 MR. SALERNO: I am sorry, I didn't examine them.

5 THE COURT: Let us adjourn for lunch and return
6 at a quarter to two.

7 (Luncheon recess.)

8 * * *

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2 AFTERNOON SESSION

3 1:45 p.m.

4 JEFFREY SCHAFFLER, resumed.

5 THE COURT: You may continue.

6 CONTINUED DIRECT EXAMINATION

7 BY MR. SALERNO:

8 Q Mr. Schaffler, before we adjourned you were looking
9 at Defendant's Exhibits M through R, your food stamp trans-
10 action worksheets.11 From those documents, can you identify the serial
12 numbers of food stamps given to the aides on each occasion
13 they shopped the Schuyler Market?

14 A Yes, I can.

15 Q Mr. Schaffler, have you examined the food stamps
16 that were in this packet that has been admitted in evidence
17 as Defendant's Exhibit C?

18 A Yes, I did.

19 Q And have you examined the serial numbers of those
20 food stamps?

21 A Yes.

22 Q Do any of those serial numbers appear on your work-
23 sheets as the numbers of food coupons given to aides when they
24 shopped the Schuyler Market?

25 A Yes, they do.

2 Q Do all of the food stamps that appear on Exhibit C
3 appear on the worksheets?

4 A Yes, all food coupons on Exhibit C are in the
5 worksheets.

6 Q Will you identify which worksheets reflect the
7 serial numbers of stamps in the packet Exhibit C?

8 May I direct your attention first to May 30th.

9 A Yes.

10 From the transaction of May 30th --

11 Q That is Exhibit P, let the record reflect, and you
12 are looking at two transaction worksheets at this date and
13 are you looking at the one that reflects that the aide was
14 Ruth Oliveras?

15 A Yes, I am.

16 Q What does that show?

17 A It shows that on May 30, 1973, the following stamps
18 -- excuse me, the following \$5 stamps were given to Ruth
19 Oliveras. There were six-\$5 stamps worth a total of \$30,
20 which is one book, serial number E26975647A.

21 Q Are all six of those stamps with that serial number
22 in the packet Exhibit C?

23 A Yes.

24 Q Is it possible for more than six food coupons to
25 have the same serial number?

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2 A No, it's not. They come bound in a book and it
3 would just be those six with those serial numbers.

4 It is a book of six stamps, each with the same
5 serial number?

6 A Yes, it is.

7 Q On May 30th did you give the aides any other \$5
8 coupons than the ones just mentioned?

9 A No.

10 Q From the May 30th worksheet, again, Exhibit P, the
11 first sheet for Mrs. Oliveras, can you tell what the \$5
12 coupons were used for?

13 A They were sold.

14 Q For how much?

15 A They were sold for \$15 in cash.

16 Q I direct your attention to the other coupons in the
17 packet in evidence as Exhibit C and direct your attention then
18 to the June 4th worksheet.

19 Does that reflect other stamps in the packet?

20 A Yes, it does.

21 Q That is Exhibit Q and there is just one worksheet
22 in that exhibit?

23 A Right.

24 Q What does that show with respect to the serial
25 numbers of food stamps?

2 A The following --

3 MR. GURSKY: Just a minute, please.

4 MR. SALERNO: Exhibit Q.

5 MR. GURSKY: What date is that?

6 MR. SALERNO: June 4th.

7 Q What does the June 4th worksheet, Exhibit Q, show
8 with respect to the serial numbers of food stamps?

9 A Investigative aide Ruth Oliveras was given 24-\$5
10 stamps, which would be worth a total of \$120. This is broken
11 down into four books -- excuse me, into -- yes, into four
12 books, each consisting of six stamps.

13 The serial numbers were as follows: E14465885A,
14 86A, 87A and 88A.

15 Q How many of these stamps were in the packet Exhibit
16 C when you examined it, do you recall?

17 A Well, that would be a total of 19 out of 24.

18 Q Can you identify which of each serial number?

19 A There were six of E14465886A, six of E14465887A,
20 six of E14465888A and one with the serial number E14465885A.

21 Q On June 4th, did you give the aides any other \$5
22 coupons other than the ones you read off the June 4th sheet?

23 THE COURT: What happened to the other six?

24 MR. SALERNO: The other five, I believe, your
25 Honor.

2 We don't know. They didn't come in. They
3 weren't cashed on the day these stamps were picked up,
4 presumably.

5 THE COURT: All right.

6 Q From the June 4th worksheet, can you tell what the
7 \$5 coupons were used for?

8 A Yes. They were sold for cash.

9 Q For how much?

10 A \$60 cash.

11 MR. GURSKY: If your Honor please, I move to
12 strike that out. He does not speak of his own knowledge.

13 THE COURT: Sustained. Sustained. He does
14 not know.

15 Q Mr. Schaffler, do you know Agent David Ricks?

16 A Yes, I do.

17 Q Is he still employed by the Department of
18 Agriculture?

19 A No, he is not.

20 Q Do you know where he is?

21 A He is currently attending Harvard Business Graduate
22 School.

23 Q Do you know what he is doing today?

24 A He is taking a final examination.

25 Q Thank you, Mr. Schaffler.

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2 MR. SALERNO: I have no further questions.

3 THE COURT: You may cross-examine.

4 CROSS-EXAMINATION

5 BY MR. GURSKY:

6 Q Mr. Ricks, where do you live?

7 A I am Mr. Schaffler.

8 Q Mr. Schaffler, I am sorry.

9 A Where do I live?

10 Q Yes.

11 A I live in Brooklyn.

12 Q What is the address?

13 A 535 Neptune Avenue.

14 Q And how did you come to be employed by the
15 Department of Agriculture?16 A I took the Federal Service entrance exam and was
17 offered a job.18 Q Under the practice of your department, the office
19 of the Inspector General, do you have the authority to hire
20 aides?

21 A Yes, we do.

22 Q And is that how Mrs. Oliveras and Cabassa were
23 hired individually by individual agents?

24 A They were hired by a group of agents.

25 Q Was any investigation made of their qualifications?

2 A Of their qualifications?

3 Q Yes, and integrity?

4 A A background check was done on them, if that is what
5 you mean.

6 Q What do you call a background check?

7 A An FBI check was made to see if there was any
8 derogatory information on them.

9 Q Did you get a report?

10 A Yes, we did.

11 Q What did the FBI report show?

12 A There is an absence of records. There is no
13 criminal record.

14 Q Then that is all that the report showed, that there
15 is an absence of any conviction or a crime?

16 A Right.

17 THE COURT: Or arrest.

18 Q Does it show arrests?

19 A Or arrest, yes.

20 THE COURT: It is called a name check.

21 Q Did you or Mr. Ricks make any further investigation
22 of these shoppers?

23 A No.

24 Q How do these shoppers get paid?

25 A They are paid when they work and by the hour.

2 Q Do you have to submit a voucher for them?

3 A Yes, we do.

4 Q Do you pay them?

5 A If I am using them I pay them, yes.

6 Q Is there a special fund, cash fund that the
7 Government uses for that or what?

8 A No. The agent pays them and then he submits that
9 voucher to be repaid. He may take out a cash advance and
10 apply that towards various expenses if he wishes.

11 Q So that these shoppers are not so-called under any
12 official jurisdiction of the department?

13 A I don't know what you mean by official jurisdiction?

14 Q They, in effect, work at your desire, at your wish?

15 A That's correct.

16 THE COURT: But he represents the department.

17 MR. GURSKY: Yes.

18 Q How many stores do you visit in a typical day?

19 A In the course of food stamp investigations, it
20 would be anywhere from about five to eight stores.

21 Q If these shoppers -- were you here -- you weren't
22 here when they testified?

23 A No.

24 Q If they testified that they did four or five stores
25 a day, that that would be at least an error, right?

2 THE COURT: No. She said five or six.

3 MR. POTTER: Objection, your Honor.

4 Q Do you have a list of the stores that you visited
5 on that day, on the 23rd, the 24th, the 30th and so forth,
6 those six dates that are involved here?

7 A Do I have a list? No.

8 Q When you make these worksheets, you make a worksheet
9 for each visit, don't you?

10 A Yes.

11 Q And were you advised at one time subsequent to the
12 examination before trial to give us the number of stores you
13 visited on those days?

14 A No.

15 Q After each of the shoppers came back with their
16 merchandise to the car, did you or Mr. Ricks go to the store
17 to verify the purchase of the eligible or the ineligible items?

18 A Did we go into the store?

19 Q Yes.

20 A No.

21 Q And that would apply, also, on the occasions when
22 they told you they sold stamps for cash?

23 A On those occasions we did not go in the store,
24 either, no.

25 Q What did you do with the merchandise that the

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2 shoppers brought back to the car?

3 A Well, eventually all goods are donated to charity,
4 except alcoholic beverages, which are destroyed in the office.

5 Q When you say eventually, how long a period of time?

6 A Either that day or the next day, depending on how
7 late it is.8 Q when you make these investigations and you go out
9 on these special cases, you anticipate that you might need
10 them in the course of either administration proceedings or
11 judicial proceedings, don't you?

12 A The goods?

13 Q Yes.

14 A No.

15 Q For purposes of evidence?

16 A No. They are listed and when they are donated they
17 are signed for and each item is initialed that these goods
18 were donated. They are signed for by the agency that it is
19 being donated to, a representative of that organization.

20 Q Have you got such receipts for such merchandise?

21 A Yes. They should be in my work papers.

22 THE COURT: Do you have them?

23 MR. POTTER: We are looking, your Honor.

24 (Pause.)

25 Q Are these sheets supposed to be in conformance with

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2 your reports for each day?

3 A I am sorry, I don't understand what you mean.

4 Q The items that you have listed, for instance, on
5 the 23rd of May, should that be on the 23rd of May of the
6 sheet?7 A No, not necessarily. It would all be when it is
8 donated or when the sheet is made up.9 What the form indicates is the basic accountable.
10 If you take your total number of worksheets and it has, for
11 example, 100 items, then there should be 100 items total on
12 all your donated sheets and they should match up on the work-
13 sheet item for item, except for any alcoholic*beverages, which
14 would be destroyed and we would have a separate sheet.15 Q But there wouldn't be any item on there that
16 wouldn't be on your worksheet, or are you combining them with
17 other stores as well?

18 A No, that is only for that store.

19 Q Were there any other stores that you visited that
20 day that you found violations and kept the merchandise?

21 A We never keep merchandise.

22 Q I mean for the day, until such time as you are able
23 to make the entry, so to speak, on your worksheet and your
24 receipt sheet.

25 A The entries are made immediately and if there were

2 violations in other stores I wouldn't remember.

3 Q Do you take the merchandise to the charitable
4 organization?

5 A It is is my case I do, yes.

6 Q We find some items here that are apparently a pen
7 is run through.

8 What does that indicate?

9 MR. SALERNO: Could the record reflect what
10 Mr. Gursky is showing the witness, please?

11 MR. GURSKY: I am showing the witness --

12 THE COURT: Mark it for identification.

13 MR. GURSKY: A receipt for items purchased the
14 24th of May, 1973. That will be for identification.

xxx 15 (Plaintiffs' Exhibit 10 marked for
16 identification.)

17 MR. GURSKY: And a receipt dated 25 May, 1973.

xxx 18 (Plaintiffs' Exhibit 11 marked for
19 identification.)

20 Q Did you make these reports out, the receipts and
21 the worksheet?

22 A May I see them?

23 Q This is Exhibit 10.

24 (Handing.)

25 MR. GURSKY: Do you have the original on the

2 worksheet for the 24th of May?

3 MR. SALERNO: The worksheet, you say?

4 MR. GURSKY: Yes.

5 MR. SALERNO: Exhibit N.

6 (Handing.)

7 A Well, the cross-outs have the initials D.R. next to
8 them. That would stand for David Ricks. That would indicate
9 that he was aware that it was crossed out. I notice that all
10 the items that are crossed out are eligible items, items you
11 are allowed to buy for food stamps, such as bread, corn starch.

12 Q Didn't you give those to the organization?

13 A This would mean that they were not given to the
14 organization, because he crossed them out and initialed next
15 to them.

16 Q Are they both in the same handwriting? Don't they
17 appear to you to be in different handwritings?

18 A No, the handwriting is mine. The initials are his.

19 Q Is the handwriting yours in both documents?

20 A On these? These are my -- this is my handwriting --

21 Q When you say "these," you are referring to Exhibit
22 N for identification.

23 Q That is in your handwriting?

24 A One of the transaction worksheets in Exhibit N is
25 in my handwriting and one is in the handwriting of special

2 agent Ricks.

3 Q And whose handwriting is on this receipt?

4 A The receipt is my -- the list of items is in my
5 handwriting.

6 Q Weren't these done at the same time?

7 A Wasn't what done at the same time?

8 Q The receipt and the worksheet?

9 A No, not necessarily.

10 The sheet is made out when you actually list the
11 items to give to charity and it may be on that day, it may be
12 a different day. It does not have to be the same time.

13 Q Wouldn't it have been the same time if these items
14 appear on both sheets?

15 A No, it wouldn't, because you have the worksheet and
16 that lists everything you bought.

17 Now, you may not be donating it right then and
18 there, so when you go to donate it or when you go to list them
19 to get the goods to donate them you would put it on the work-
20 sheet at that time.

21 Q But these are both dated the same day, your worksheet
22 and this receipt.

23 THE COURT: It does not mean they were written
24 at the same time.

25 MR. GURSKY: I assume the receipt was.

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2 THE COURT: Why? There is no basis for such
3 an assumption in the record.

4 Q Were those written on the same day? Even though
5 they are dated that same day, would that mean they were
6 written on different dates?

7 A It could be. It could possibly be. The same date
8 on the donated sheet might indicate those are the goods from
9 that date, not necessarily that was the day it was donated.

10 Q Did you receive any tapes on each of these trans-
11 actions on these six dates?

12 A As I recall, we received one or two, yes.

13 Q Just one or two?

14 A That's all I remember. I would have to look and
15 check it out.

16 THE COURT: If you received the tapes, would
17 they be in the file or would you throw them away?

18 THE WITNESS: No, your Honor, they would be
19 in the file.

20 THE COURT: They would be in the file.

21 Do you have any tapes?

22 MR. POTTER: Yes, your Honor, I believe we have
23 one.

24 THE COURT: Produce them.

25 MR. SALERNO: They are attached to the worksheets,

2 your Honor, those that we have. They are already in
3 evidence.

4 MR. GURSKY: Mr. Potter has just given me
5 Exhibit M and Exhibit Q as the only two of the worksheets
6 that have tapes attached to them.

7 Q When you attached these tapes, did you compare the
8 items on the tape with the items on the statement? *

9 A No, not necessarily.

10 Q You just take for granted that those items are all
11 right?

12 A No. The items on the statement are what are
13 actually read off the item that is marked. If a good is
14 marked 79, when we list that good we put the price on it as
15 79 cents.

16 Q You would have to compare it, wouldn't you, in order
17 to make sure that the tape has the same prices as the report?

18 A Not necessarily, no.

19 Q You mean a tape could be entirely different? The
20 tape for those particular items of merchandise which the
21 shopper gave to you could be different?

22 A It shouldn't be different, no.

23 THE COURT: He is not interested in that. He
24 is asking you about checking them. For his purposes it
25 is sufficient if the merchandise is brought to his car by

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2 the aide and lists them at that point taking off the
3 prices from the items themselves. That is what he is
4 telling you.

5 Q Then do I understand that you don't check the tapes
6 on the items?

7 THE COURT: That's right. He told you that.

8 MR. GURSKY: All right.

9 Q Could you notice whether the tape has a date on it?

10 A This one here? I would have to look.

11 Q I show you Defendant's Exhibit M.

12 (Handing.)

13 A Yes, it does.

14 Q What is the date on it?

15 A May 22nd -- well, May 22nd is all it says.

16 Q Then would you assume, then, that May 22nd was the
17 date that that tape was delivered to your shopper?

18 A Not at all, no sir, because my experience has
19 always indicated that in many stores the dates are just --
20 have no correlation to the date we are there, which is one
21 of the reasons we collect those tapes and put them on.

22 Q When the shopper gives you that tape, you don't
23 see her getting it, do you?

24 A No, not unless I'm in the store.

25 Q You weren't in the store on this date, were you?

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2 A No.

3 Q On May 23rd?

4 A No, I was not.

5 Q And you weren't in the store on the 4th of June when
6 you got this tape, which is attached to Defendant's Exhibit
7 Q? Were you in the store then, on the 4th of June?

8 A No.

9 Q Is there any date on that tape?

10 A I don't see any, no.

11 Q And all the information that you get that goes on
12 this information is simply information that is given to you
13 by the shopper?14 A That and a combination of what we see. We watch
15 them enter the store and we watch them leave the store.

16 Q Where did you park your car on the 23rd of May?

17 A Within the vicinity of the store.

18 Q What street?

19 A I don't remember.

20 Q You didn't park immediately in front of the store,
21 did you?22 A It depends on the store. It depends on how busy the
23 street is.24 Q Do you remember on any particular date you did park
25 some distance away, a block or two or on the side street?

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2 A I remember certain places where I parked, but to
3 match them with the date I couldn't tell.

4 Q Were there times when you parked on the side street
5 and not Columbus Avenue?

6 A Yes, sir.

7 Q Then the shopper had to walk from your car to the
8 store, right?

9 A Yes.

10 Q And when she came out she had to walk from the store
11 to your car?

12 A That's right.

13 Q You personally don't know whether they received
14 these particular tapes or not, do you?

15 A No, I was not in the store.

16 Q Did you turn in the coupons on the other cash
17 transactions that you had?

18 A I don't understand. I'm sorry.

19 Q Did you receive the coupons on the other trans-
20 actions? For instance, on June 6th you had a \$180 worth of
21 coupons that were allegedly bought for \$90. Where are those
22 coupons?

23 A Where are the coupons?

24 Q Yes.

25 A The coupons were sold to the store.

2 Q Yes. Do you have those coupons?

3 A Do you mean did we recover them?

4 Q Yes.

5 A No, they were never recovered.

6 Q And that would be so on the \$30 purchase that was
7 made allegedly on the 29th of May.

8 A Yes. All we recovered were what is listed there.
9 We didn't recover anything else.

10 Q So from the total of \$330 worth of coupons, all
11 that was recovered by you or by the department was \$125 of it?

12 A Twenty-five \$5 stamps were recovered.

13 Q And you don't know of your own knowledge, of course,
14 that the rest of that was sold to the Schuyler Market?

15 A No.

16 Q As a matter of fact, you don't know of your own
17 knowledge even those coupons which you received were sold to
18 Schuyler Market?

19 A They would have to be sold to Schuyler Market.

20 Q Could someone else have bought it and cashed or
21 used it for merchandise in Schuyler Market?

22 THE COURT: How could that be?

23 MR. GURSKY: There may be people --

24 THE COURT: The testimony is they gave these
25 serial numbered coupons to the aides in front of or in

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2 the vicinity of the store, the numbers were written down
3 at that moment, the aide came out and gave them the cash.

4 MR. GURSKY: He didn't give it to them at that
5 moment, your Honor.

6 THE COURT: When do you think he gave it to
7 him? The testimony says when they came out they ~~came~~ to
8 the car and gave them the money.

9 MR. GURSKY: It could be ten or fifteen minutes.
10 She said she was in the store ten or fifteen minutes on
11 each of the shopping trips.

12 THE COURT: But if the coupons turn up by
13 deposits by this defendant, who else had them?

14 MR. GURSKY: Well, it could be that somebody
15 else could have sold them, she could have sold them to
16 somebody else and that somebody else could have --

17 THE COURT: Then what --

18 MR. GURSKY: -- could have bought merchandise.

19 THE COURT: And then she took the money and
20 gave it to the agent. Did they manufacture the money?

21 MR. GURSKY: No. She could have sold it, she
22 could have sold it --

23 THE COURT: Where?

24 MR. GURSKY: In the store or outside of the
25 store in that ten minutes. She may have had her own --

2 THE COURT: What is the point of doing that?

3 How does she benefit by that?

4 MR. GURSKY: She could sell it for more than
5 \$90 and turn in \$90.

6 THE COURT: All in the period of time she was
7 in the store?

8 MR. GURSKY: Could be. I think that is a
9 possibility. .

10 As a matter of fact, I think on his examina-
11 tion before trial this witness admitted that that's a
12 possibility.

13 THE COURT: There are a lot of things that are
14 possibilities.

15 Go ahead.

16 MR. GURSKY: The point I am making, your Honor,
17 is th : there is no personal knowledge on his part. This
18 is only a circumstance because these particular coupons
19 turned up with the stamp on the back of this store that
20 he comes to the conclusion that it was sold to the owners
21 of the store. But I say that there is a possibility that
22 somebody else could buy coupons and come into that store
23 and whether over a period of time or whether it be ten
24 minutes or two or three days those stamps could have
25 gotten into the hands of a third-party.

2 THE COURT: Theoretically there is such a
3 possibility. Go ahead.

4 MR. GURSKY: If they took --

5 THE COURT: Let us get through, will you? It
6 is 2:30.

7 Any more cross-examination of this witness?

8 MR. GURSKY: No.

9 MR. POTTER: No redirect, your Honor.

10 THE COURT: What about the money that they
11 claimed went into envelopes and signed, were you there
12 when the money was put in envelopes?

13 THE WITNESS: Yes, sir.

14 THE COURT: Where are the envelopes? Where is
15 the money?

16 MR. POTTER: If the witness is asked the
17 question, I will ask him.

18 REDIRECT EXAMINATION

19 BY MR. POTTER:

20 Q Agent Schaffler, what happens to the money that is
21 taken in in the course of an investigation such as this?

22 A The money reverts back to the United States Treasury.

23 THE COURT: You don't keep them as evidence?

24 THE WITNESS: No, sir. We keep -- we just keep
25 the fact that they were turned in and then our department

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2 forwards it to the Department of the Treasury.

3 THE COURT: All right.

4 RECROSS-EXAMINATION

5 BY MR. GURSKY:

6 Q Do you have a receipt for that money?

7 A Do I have a receipt?

8 Q Yes.

9 A No, I don't.

10 Q Who turned it in? Did you turn it in?

11 A No, Agent Ricks turns it in and when his case is
12 reviewed by his supervisor all his stamps and money and things
13 of that nature are checked out.

14 Q When did you turn that money in or when did Ricks
15 turn that money in?

16 A I believe there is a form in there that would in-
17 dicate that in the work papers.

18 (Pause.)

19 THE WITNESS: I don't have the receipt here,
20 your Honor. They have to have a master receipt somewhere,
21 either within our department or back at Treasury which
22 could be gotten if they wanted it.

23 THE COURT: Let me ask you something.

24 How does the person on welfare get these food
25 stamps to start with?

2 THE WITNESS: Well, they can be on welfare or
3 just have a low enough income.

4 It depends on --

5 THE COURT: How do they get them?

6 THE WITNESS: They receive in the mail what is
7 called an ATP, authorization to purchase card, and this
8 card indicates for a certain amount of money you can get
9 a certain amount of food stamps.

10 THE COURT: If you want to buy \$100 worth of
11 food stamps, how much do you have to pay for it?

12 THE WITNESS: That all depends on that. The
13 City determines that.

14 THE COURT: Do you have any idea what it is
15 in the City of New York?

16 THE WITNESS: Yes, sir. It would be something
17 like for \$25 I think you can get about \$40 or \$45 worth
18 of stamps.

19 There are different certifications for different
20 people depending on their incomes. This is where -- there
21 is no one set amount for each person. Everybody that
22 gets food stamps is called in.

23 THE COURT: Everybody who gets food stamps is
24 called in?

25 THE WITNESS: Initially when they first apply

2 and a determination is made how many food stamps they
3 will get for how much money.

4 THE COURT: Can you give me some rough approxi-
5 mation of what it was in the City of New York?

6 THE WITNESS: I have no idea. We have nothing
7 to do with that. Just from what I have seen during my
8 experiences, I have seen some that go approximately for
9 \$25 a month will get \$40 or \$45 worth of food stamps.

10 BY MR. GURKSY:

11 Q Were there any other food stamps that were recovered
12 by your department in connection with any of these trans-
13 actions that we are involved with here?

14 A No, no.

15 Q And was it your practice to look for these stamps
16 on the purchase of the ineligible items?

17 A To try to recover the stamps used for shopping?

18 Q Yes.

19 A No, not at all.

20 Q So as to show that it came through this particular
21 store?

22 A No. In fact, we make it a practice not to try and
23 recover those for reasons which I could explain if you like.

24 THE COURT: Ask him if he wants to hear it.

25 Q Yes.

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2 A We don't try to recover any coupons used in shopping
3 because we find that when we go to banks very often someone
4 in the bank will tip off the store that we were down there
5 checking.

6 Through our experiences we found although a bank is
7 supposed to cooperate with you by law, one of the tellers or
8 perhaps one of the managers knows the store and for various
9 reasons maybe they are afraid of losing business if we close
10 down the store, the store gets tipped off and the next point
11 when the aides come back they are cut off, "We don't know you,
12 who are you," and things like that.

13 Q But the damage, so-called, will have been done --

14 MR. SALERNO: Objection.

15 THE COURT: He is saying they are tipping off
16 the owner not to do it any more because they are checking
17 on them.

18 Q But the stamps would have to come back to you,
19 wouldn't they?

20 A No, the stamps don't come back to us.

21 Q If they are deposited. If they are deposited, it
22 comes back to some agency of the Government, doesn't it?
23 Doesn't it come back to your agency?

24 A No, it does not come back to mine.

25 Q The Department of Agriculture?

2 A No, it does not come back to the Department of
3 Agriculture.

4 Q But did you check with any of the banks as to the
5 number of the coupons which were deposited on that day?

6 A On what day?

7 Q On any of these particular days.

8 A Yes. On June 4th, I think, when we recovered them,
9 that is what we were in there that was marked and written the
10 serial numbers down on.

11 Q You mean you went to the bank on June 4th and got
12 back these particular coupons which were deposited on June 4th?

13 A Was it June 4th? I'd have to see the receipt. If
14 June 4th is what the receipt indicates, that is the day we
15 were there, yes.

16 Q What day would that be?

17 You are looking now at Exhibit C.

18 A That wouldn't indicate the day we were at the bank.
19 I would need the receipt.

20 The stamps were recovered on June 5, 1973.

21 MR. SALERNO: Will the witness indicate what
22 he is looking at when he says that?

23 THE COURT: What are you looking at?

24 THE WITNESS: It is indicated on the evidence
25 receipt, it is indicated on a form which we use, a copy

2 of which I have here, which we give to the bank when we
3 recover redemption certificates from them and it is
4 indicated on the receipt for recovery of food stamp
5 coupons.

6 Q Then this would be the date that you received these?

7 A June 5, 1973.

8 Q Is there any indication on these as to when they
9 were deposited on these coupons?

10 A The day they were deposited?

11 Q Yes.

12 Let us look at them. May I open this?

13 Look at them and see if there is any indication as
14 to when they were deposited.

15 A The food stamp redemption certificate has a date of
16 6/5/73.

17 Q Does that mean that it was deposited on that date?

18 A Probably yes.

19 (Pause.)

20 Q The thing that puzzles me on this, can you explain
21 how it is possible for you to be there on the same day of the
22 deposit and be able to pick these things up?

23 A Not at all.

24 We make arrangements with the bank when we decide
25 to attempt recovery and we tell them when they deposit please

2 let us know.

3 On June 5th he called us or someone from the bank
4 called us and informed us that a deposit was made and we went
5 down immediately and recovered them.

6 Q There is a deposit made every day, isn't there?

7 A I don't know. Not necessarily.

8 THE COURT: Not necessarily.

9 Q Were there other stamps with these?

10 A I don't remember. I would assume so.

11 Q Is there any indication on there as to the name of
12 the bank?

13 A Yes, there is. We have the bank officer's signature
14 who witnessed us taking them.

15 Q May I look at it?

16 A Yes.

17 (Handing.)

18 THE COURT: Where is the bank?

19 THE WITNESS: It is the Manufacturer's Hanover
20 Trust on West 96th Street, your Honor.

21 THE COURT: Any further examination of this
22 witness?

23 MR. GURSKY: No further examination.

24 MR. POTTER: We have no redirect, your Honor,
25 and the defendant rests.

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2 (Witness excused.)

3 MR. GURSKY: I move, your Honor, for judgment on
4 behalf of the plaintiffs on the ground that the defendant
5 has not made out a case with credible evidence which would
6 sustain the validity of the imposition of a disqualifica-
7 tion of the plaintiffs.

8 THE COURT: Decision reserved.

9 Do you have any evidence in rebuttal?

10 MR. GURSKY: Yes, your Honor.

11 THE COURT: Put it on.

12 MR. GURSKY: Mr. DeMartino.

13

14 NATALE DeMARTINO, called in rebuttal
15 by the plaintiffs, having previously been duly sworn,
16 testified further as follows:

17 THE CLERK: Mr. DeMartino, the Court wishes
18 you to know that you are still under oath.

19 THE COURT: You may proceed.

20 DIRECT EXAMINATION

21 BY MR. GURSKY:

22 Q Mr. DeMartino, did you bring your payroll book with
23 you?

24 A Yes.

25 Q Will you take it out and refer to the period from

2 the 23rd of May, 1973.

3 Is this a book kept by you and your firm in the
4 regular course of your business?

5 A My accountant, Mr. Perlberg.

6 Q Your accountant keeps this in the regular course of
7 business?

8 A Yes.

9 Q And the entries made there are made regularly by
10 him?

11 A By the accountant, yes.

12 Q On information furnished by you?

13 A By the timecards.

14 Q By the timecards?

15 A Yes.

16 Q Will you look for the date of the 23rd of May and
17 tell the Court, please, if you had anyone working there who
18 was a female clerk weighing about 130 pounds, twenty-five
19 years old, five foot --

20 THE COURT: The record will reflect that?

21 MR. GURSKY: Pardon?

22 THE COURT: Will that book reflect that
23 information?

24 MR. GURSKY: But he knows the names of the
25 people that are on there.

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2 THE COURT: Ask him who he had working there
3 on May 23rd.

4 Q How many people did you have working there on
5 May 23rd?

6 A Twelve.

7 THE COURT: How many women?

8 THE WITNESS: Six.

9 THE COURT: Six?

10 THE WITNESS: Yes.

11 THE COURT: Did any of them fit the following
12 description?

13 Now read it to him.

14 Q A female, twenty-five years old, five foot-six
15 inches tall, weighing about 130 pounds, brown hair, brown
16 eyes, negro, medium complexion, three silver bracelets, white
17 wedding band, as a clerk who served Nydia Cabassa?

18 A What time was this?

19 Q This was May 23rd and no time is given on the
20 report.

21 MR. POTTER: If your Honor please, the letters
22 of charges identifies the clerk in question as Jean Parks.
23 Jean Parks has testified --

24 MR. GURSKY: I expect to call her.

25 MR. POTTER: -- yesterday that she did not sell

2 any ineligible items on the 23rd of May.

3 THE COURT: That is true.

4 MR. POTTER: I think this is improper rebuttal
5 testimony.

6 THE COURT: I thought you were asking about an
7 unidentified person, Mr. Gursky.

8 MR. GURSKY: All right, I will take the ones
9 that are unidentified.

10 Q On the 24th of May, how many female employees do you
11 have listed?

12 A Six.

13 Q Do any of those female clerks fit the following
14 description:

15 Twenty-seven years old, five foot-two inches tall,
16 weighing about 125 pounds, negro, light brown hair, brown
17 eyes, medium complexion, same clerk who served Nydia Cabassa.

18 Among all those female clerks on that day, do any
19 of them fit this description?

20 A No, not on that day.

21 Q Did you ever have an employee by the name of Joe,
22 whose first name was Joe?

23 A Not in this -- no.

24 Q Does anybody you have, a male, fit this description:
25 Fifty-five years old, about five foot-six inches

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DeMartino-direct

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2 tall, weighing about 165 pounds, white, black and gray hair,
3 brown eyes, light complexion, long nose, wearing a white coat,
4 he takes care of the vegetables?

5 A No.

6 Q Did you have any man who, on May 30th, that fits
7 this description:

8 A heavy man, 300 pounds, six foot-no inches tall,
9 white apron, long black hair parted in the middle, about
10 forty-five?

11 A No.

12 Q Mr. DeMartino, what is your practice when a customer
13 comes to the checkout counter with food?

14 A We ring up the sale and we give them a sales slip.

15 Q When you say a sales slip, do you mean a regular
16 tape?

17 A Yes. At that time we had 1600 machines. I bought
18 them when I opened the store. They gave us tape enough for --

19 Q What does 1600 machine mean?

20 A That was a type of machine.

21 Q What do these machines produce?

22 A They give you a tape with the store name, address,
23 telephone number on it.

24 Q So that when each customer gets a tape from your
25 store on that machine, they get the name of your store,

2 address and telephone number? Do they also get the date?

3 A Yes.

4 Q And do you instruct the people who work at your
5 checkout counter that each customer must get a tape?

6 A That's the law.

7 THE COURT: I know it is the law, but do you
8 do it?

9 THE WITNESS: Yes.

10 Q I show you Defendant's Exhibit M and Defendant's
11 Exhibit Q, to which are attached certain tapes.

12 I ask you to look at them and tell me whether or
13 not those tapes came from your store?

14 A This one does not have my name on it so it couldn't
15 be mine.

16 Q Does it look anything at all like the tape you used
17 on May 23, 1973?

18 A It is the same type of machine.

19 Q And if it does not have your name on it, it can't
20 be yours?

21 MR. POTTER: Objection.

22 THE COURT: Sustained.

23 Q How about this one on Exhibit Q?

24 A This isn't a full tape. This isn't a full tape at
25 all. It has a \$35 credit on it and then \$2.

2 Q Is there any doubt in your mind as to whether that
3 tape comes from your store?

4 A I don't see my name on it.

5 Q Then it isn't from your store?

6 A I would say it is not.

7 MR. POTTER: Objection.

8 THE COURT: It does not necessarily follow.

9 THE WITNESS: Well, this isn't a full tape.

10 THE COURT: It could have been torn off.

11 THE WITNESS: Well, that is not a full tape,
12 that one. The top is missing. But the other one is a
13 full tape and it does not have my address on it.

14 I don't know what was on top of that. They
15 got the whole tape. I don't know why they took off the
16 top, because you got a whole tape there.

17 Q On the morning of each day, do you change your tape
18 so far as the date is concerned?

19 A I change them when I check the machines every night.

20 Q And you move the dating part of the machine?

21 A That you move the dating part.

22 Q What instructions do you give your checkers with
23 respect to eligible or ineligible items?

24 A We tell them what is eligible, what is not eligible.
25 That's one of the reasons I bought the newer type machines,

1 gtmh

DeMartino-direct

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2 250 computer. It separates them.

3 Q When did you buy this new computer?

4 A Last year.

5 Q What date?

6 A Last, I think, a little bit over a year old. We
7 got them last September.

8 Q I don't hear you.

9 A Last September of 1974.

10 Q And was that the first time that this new machine
11 came out?

12 A That was the first ones in Manhattan.

13 MR. POTTER: Your Honor, I object to this whole
14 line of testimony. The witness has already testified now
15 that the machines were bought in September of 1973.

16 THE COURT: Sustained.

17 MR. POTTER: Thank you.

18 MR. GURSKY: No further questions.

19 Excuse me, your Honor.

20 (Pause.)

21 MR. GURSKY: No further questions.

22 MR. POTTER: I have no questions, your Honor.

23 THE COURT: All right.

24 (Witness excused.)

25 THE COURT: Next witness.

2 Miss Parks.

3

4 J E A N P A R K S, called in rebuttal by
5 the plaintiffs, having previously been duly sworn,
6 testified further as follows:

7 THE CLERK: Miss Parks, the Court wishes you
8 to know that you are still under oath.

9 DIRECT EXAMINATION

10 BY MR. GURSKY:

11 Q Miss Parks, what is generally your assignment in the
12 Schuyler Market?

13 A I'm a cashier, clerk.

14 Q When you first started to work for Schuyler Market,
15 did you receive any instructions from Mr. DeMartino?

16 MR. POTTER: Objection, your Honor. This is
17 improper rebuttal.

18 THE COURT: Overruled.

19 Q With respect to eligible or ineligible items and
20 food stamps and so on.

21 A Yes, we are instructed.

22 Q What were the instructions?

23 A Certain items can't be bought with food stamps.

24 Sodas are. A lot of stuff that is taxable that is not edible,
25 with the exception of sodas, candy, which is edible.

2 Q On the 23rd of May, 1973, the cash register that you
3 operated for the Schuyler Market, did each one of the tapes
4 have the date on it?

5 A I can't testify for dates, but as a rule every day
6 tapes has date.

7 THE COURT: I don't understand what you mean
8 by that.

9 THE WITNESS: He asked me a specific date,
10 May 23rd.

11 THE COURT: Yes.

12 THE WITNESS: I can't recall, you know, exact
13 dates, but every day there is a date on each receipt.

14 Q And the date on the receipt the date which you are
15 operating --

16 A Corresponding on the receipt.

17 Q Corresponds to the date of the date on the calendar,
18 is that true?

19 A Yes, yes.

20 Q How old are you, Miss Parks?

21 A Forty-five.

22 Q And how tall are you?

23 A Five-two, five-three, I think, just about.

24 Q And how much do you weigh?

25 A Now? 149.

2 Q What did you weigh on May 23, 1973?

3 A That was about a year and a half?

4 Q About a year and a half.

5 A It was previous to my illness. I was about, just
6 before I went into the hospital, I was about 160. I was very
7 heavy.

8 Q Did you ever wear three silver bracelets?

9 A No, I wear a watch.

10 Q During the course of your working for Schuyler
11 Market, did you ever let a customer go by without giving them
12 a tape or offering them a tape?

13 A No.

14 Q I show you this photograph, and ask you if this is
15 a fair representation of the checkout counters?

16 A Oh, yes.

17 MR. POTTER: Might we have a date, your Honor,
18 as to what that represents?

19 Q As of May 23, 1973 and the period up to June 6, 1973.

20 A Yes. It's been the same, no change.

21 MR. GURSKY: I offer this in evidence.

22 THE COURT: Any objection?

23 MR. POTTER: No objection, your Honor.

24 xxx 24 (Plaintiffs' Exhibit 12 received in evidence.)

25 Q How many checkout counters are there as you can see

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2 from that photograph?

3 A There are three in the store.

4 Q Is there one speed checkout counter in addition to
5 that?

6 A Yes, on the side.

7 Q Would this be the area where the speed checkout
8 counter would be?

9 A Yes, right there.

10 MR. GURSKY: I offer this in evidence.

11 THE COURT: Any objection?

12 MR. POTTER: No objection.

xxx 13 (Plaintiffs' Exhibit 13 received in evidence.)

14 Q Are you familiar with the vegetable area of the
15 store as it existed on May 23, 1973 and through to June 6,
16 1973?

17 A Yes, sir.

18 Q Can you say that this is a fair or good representa-
19 tion of the area of the part of the vegetable area?

20 A Yes.

21 Q Vegetable and fruits?

22 I will show you both these photographs.

23 (Handing.)

24 A Yes, that is it.

25 MR. GURSKY: I offer them in evidence. May I

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2 have each one marked separately.

3 MR. POTTER: Your Honor, might I inquire as to
4 the purpose of the introduction of these exhibits into
5 evidence?6 MR. GURSKY: I want to show through these photo-
7 graphs, Judge, that it was absolutely physically impossible
8 for these two women to have seen this so-called Joe go to
9 somebody else that was near the office, because their vision
10 would have been blocked completely.

11 THE COURT: Do these pictures show it?

12 MR. GURSKY: Yes, some of these. I am going to
13 show them in the course, yes.

14 MR. POTTER: May I see the pictures, your Honor?

15 THE COURT: Show it to counsel.

16 (Pause.)

17 MR. POTTER: Are these all the pictures that
18 you are offering, Mr. Gursky?

19 MR. GURSKY: Plus those other two.

20 (Handing.)

21 MR. GURSKY: For that purpose, too, your Honor,
22 I would like to recall Natale DeMartino.23 MR. POTTER: Your Honor, for the purpose for
24 which these pictures are offered, I must object because
25 this could not possibly sustain the proof that Mr. Gursky

2 if offering them for.

3 These are isolated pictures of parts of the
4 store. How these can be put together to frame a line of
5 vision escapes me.

6 THE COURT: Let me see them.

7 (Handing to the Court.)

8 MR. GURSKY: By having the witnesses identify
9 the various positions.

10 THE COURT: From looking at these pictures I
11 can't find that that statement is true. Let the witness
12 testify.

13 These pictures will not show that that is true.

14 MR. GURSKY: They show if you are standing in
15 the vegetable area, they will show facing towards the
16 other end of the store which the defendant's witnesses
17 have testified that these obstructions would not permit
18 them to see anybody coming from the vegetable area over
19 to where the office is.

20 This is what I am trying to show through these
21 pictures.

22 THE COURT: Let her testify to it.

23 Go ahead.

24 BY MR. GURSKY:

25 Q If someone were standing in the vegetable area near

2 where the scale is and looking towards the direction where
3 the office is, could they see the person from that position
4 in the vegetable area anybody else near that little office
5 or the counter adjoining it?

6 A No.

7 Q Would their vision be obstructed? By what --

8 A The soda. There is the soda bin where you keep the
9 cold sodas and beer.

10 Q And are you referring now to the refrigerator?

11 A Yes.

12 Q And is this the refrigerator that you are referring
13 to?

14 A Yes, this one right here (indicating).

15 Q In other words, if they were looking toward the end
16 where the office is, they would have to see through the
17 counters and the shelving that is beyond it; is that correct?

18 A They couldn't see. They would have to come all the
19 way out.

20 Q They would have to go around toward the front of the
21 store?

22 A To the front, yes.

23 Q In order to be able to see?

24 A Yes.

25 MR. GURSKY: No further questions.

2 THE COURT: Mr. Potter.

3 CROSS-EXAMINATION

4 BY MR. POTTER:

5 Q Miss Parks, will you generally describe the area
6 which is called the vegetable area of the store?

7 A In what way?

8 Q What does it look like? Is it one single shelf on
9 which vegetables are placed, is there more than one shelf?

10 A More than one, various stands.

11 Q Is there one shelf or does it come out on the sides?

12 A It goes around, say, like this, it goes this way and
13 it curves this way (indicating) and the scale is this way.

14 Q The scale is into the center part of it?

15 A Out right next to the refrigerator.

16 Q If you are standing next to the refrigerator which
17 you pointed out in one of these pictures, can you see the
18 office?

19 A See, this is the refrigerator.

20 Q Right here (indicating).

21 A This is the refrigerator.

22 The vegetable department is all the way around this
23 way (indicating). So in order for you to see from that side,
24 you will have to come all the way up to the --

25 Q Where is the office?

2 A You can't see it from here.

3 Q On which side of the picture would the office be?

4 A All the way. This way all the way back (indicating).

5 Q And what is this whatever it is here (indicating)?

6 A Dog chains.

7 Q When were they put in the store?

8 A It's been there.

9 Q For how long?

10 A As long as I know.

11 Q If you are standing over here by these dog chains,
12 can you see the office?

13 A From the chains? You could get a visual of the top
14 of the office, you couldn't see the whole entire office.

15 Q From there, standing near the dog chains, would you
16 be next to the vegetable counter?

17 A The vegetable is the other way.

18 Q You could see it?

19 A Yes.

20 Q By standing near the dog chains you would be able
21 to see the vegetable counter and you would also be able to see
22 the office?

23 A Yes.

24 MR. POTTER: No further questions, your Honor.

25 REDIRECT EXAMINATION

1 gtmh

Parks-redirect

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2 BY MR. GURSKY:

3 Q If you stand near the dog chains, what part of the
4 office would be at all visible?

5 A The top.

6 Q Just the very top?

7 A Yes, just the top.

8 Q Where the partition is?

9 A Yes.

10 Q The top partition?

11 A Yes.

12 Q Could you see any persons from that point?

13 A No, not from there.

14 MR. GURSKY: No further questions.

15 MR. POTTER: Nothing further, your Honor.

16 (Witness excused.)

17 MR. GURSKY: May I call Mr. DeMartino in con-
18 nection with just that one thing?19 THE COURT: I will assume the testimony would
20 be the same.

21 Mr. Potter?

22 MR. GURSKY: If your Honor please, I have talked
23 with Mr. Potter about the testimony of Peter DeMartino.24 He has agreed that if Peter DeMartino were here
25 he would deny the allegations on the stand and would

2 testify that the allegations contained in Item Number 5 on
3 Exhibit 1 that he had accepted any merchandise for non-
4 eligible items.

5 MR. POTTER: If your Honor please --

6 MR. GURSKY: The reason for my asking that is
7 because this is in what we might call a one-man business
8 store and since Mr. DeMartino had to be away somebody had
9 to be in the store and he had to be there and Mr. Potter
10 was kind enough to concede that if he were here he would
11 so testify.

12 MR. POTTER: Your Honor, I just want to make
13 the record perfectly clear.

14 One, I did say to Mr. Gursky that if Mr. Peter
15 DeMartino were called I would agree that he would testify
16 in conformity with the affidavit that he submitted to the
17 review officer.

18 However, I never agreed with Mr. Gursky that
19 the calling of Mr. Peter DeMartino would be proper
20 rebuttal testimony, and any offer on such a score I would
21 strenuously object because he could have been called on
22 the plaintiffs' direct case.

23 THE COURT: I assume he couldn't be here on the
24 plaintiffs' direct case because he was not here on the
25 plaintiffs' rebuttal.

2 MR. POTTER: I won't speculate whether we needed
3 Mr. Natale DeMartino to be here both days.

4 THE COURT: Why not? He is a defendant.

5 MR. POTTER: He is a plaintiff.

6 THE COURT: He is the plaintiff, isn't he? So
7 he has to be here both days and, secondly, he had to
8 testify on both days.

9 I assume the testimony is offered whether it is
10 on direct or rebuttal.

11 MR. POTTER: All right, your Honor.

12 The Government, your Honor, respectfully moves
13 that the Complaint be dismissed.

14 THE COURT: Decision reserved.

15 MR. POTTER: Thank you, your Honor.

16

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PLTF'S EX-1

PLAINTIFF'S EXHIBIT NO. 1
UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE

NORTHEAST REGION
729 ALEXANDER ROAD
PRINCETON, NJ 08540

CERTIFIED MAIL - Return Receipt Requested

APR 1 1974

Natale DeMartino, President
Schuyler Market, Inc. d/b/a Pioneer
689 Columbus Avenue
New York, New York 10025

Dear Mr. DeMartino:

This is to inform you that there is reason to believe that you, doing business as Pioneer, New York, New York, have violated the terms and provisions of the regulations governing the Food Stamp Program, 7 C.F.R. 270-274, (hereinafter referred to as the regulations), in that the following transactions have occurred in your store:

1. On or about May 23, 1973, Jean Parks, clerk, accepted \$8.00 in food coupons (4-\$2.00 coupons) in exchange for merchandise which included one Selecto mophead, one Selecto bowl freshener, one box of Sweetheart soap, one pack of hand needles, one pack of G.E. lightbulbs and one box of Q-Dyno thread. The acceptance of food coupons in exchange for the above named items was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.
2. On or about May 23, 1973, Jean Parks, clerk, accepted \$6.00 in food coupons (3-\$2.00 coupons) in exchange for merchandise which included one bottle of Lestoil cleaner, one bottle of Thrill detergent and one box of Reynolds aluminum foil. The acceptance of food coupons in exchange for the above named items was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.
- ✓ 3. On or about May 24, 1973, a female clerk accepted \$8.00 in food coupons (4-\$2.00 coupons) in exchange for merchandise which included one mug, one roll of Pioneer foil, one can of King insect spray, one box of Alligator Baggies, one bottle of Old English polish and one Ekco peeler. The acceptance of food coupons in exchange for the above named items was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.

Def'ts Ex 2 id
12/5/74 - RL

PLAINTIFF'S EXHIBIT NO. 1

-2-

- ✓ 4. On or about May 24, 1973, a female clerk accepted \$10.00 in food coupons (5-\$2.00 coupons) in exchange for merchandise which included one pack of G.E. lightbulbs, one bottle of Carbona spot remover, one can of Easy Off oven cleaner, one box of Glad bags, one can of Comet cleanser and one box of Marcal paper napkins. The acceptance of food coupons in exchange for the above named items was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.
- ✓ 5. On or about May 29, 1973, Peter DeMartino, manager, accepted \$10.00 in food coupons (5-\$2.00 coupons) in exchange for merchandise which included one Selecto mophead, one Selecto bowl brush, one bottle of Parson ammonia, one bottle of Ivory liquid detergent, one T.V. Guide magazine and one pack of Snowflake kitchen towels. The acceptance of food coupons in exchange for the above named items was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.
- ✓ 6. On or about May 30, 1973, "Joe", a male clerk, in the presence of Natale DeMartino, accepted \$30.00 in food coupons in exchange for \$15.00 in cash. The acceptance of food coupons in exchange for cash was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.
- ✓ 7. On or about May 30, 1973, a female clerk accepted \$4.00 in food coupons (2-\$2.00 coupons) in exchange for merchandise which included one bottle of Lestoil cleaner and one box of SOS soap pads. The acceptance of food coupons in exchange for the above named items was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.
- ✓ 8. On or about June 4, 1973, a clerk accepted \$2.00 in food coupons (1-\$2.00 coupon) in exchange for merchandise which included one can of Easy Off oven cleaner and one bottle of Thrill dish detergent. The acceptance of food coupons in exchange for the above named items was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.
- ✓ 9. On or about June 4, 1973, Natale DeMartino, president, accepted \$120.00 in food coupons in exchange for \$60.00 in cash. The acceptance of food coupons in exchange for cash was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.
- ✓ 10. On or about June 6, 1973, Natale DeMartino, president, accepted \$180.00 in food coupons in exchange for \$90.00 in cash. The acceptance of food coupons in exchange for cash was in violation of Sections 270.2 (s) and 272.2 (b) of the regulations.

PLAINTIFF'S EXHIBIT NO. 1

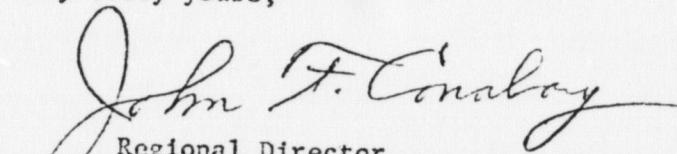
-3-

11. In the transactions described in (3) and (8) above, the purchaser received cash as change in the amounts of 3¢ and 2¢. The giving of cash as change in food coupon transactions was in violation of Section 272.2 (e) of the regulations.
12. In the transactions described in (1) and (5) above, the purchaser received 50¢ and 87¢ credit slips in two of the food coupon transactions. Giving a credit slip in excess of 49¢ in a food coupon transaction was in violation of Section 272.2 (e) of the regulations.

In accordance with the provisions of 272.6 (b) of the regulations, you may submit any information, explanation, or evidence concerning the above indicated violations of the regulations. A copy of the regulations is attached for your information. Your reply, which may be either oral or written, should be directed to Mr. Joseph Gregas, Officer-In-Charge, U.S. Department of Agriculture, Food and Nutrition Service, Veterans Administration Building, 252 Seventh Avenue-2T, New York, New York 10001, and must be received by him on or before April 11, 1974.

Your reply and the information furnished by you therein will be considered by the Food and Nutrition Service, U.S. Department of Agriculture, before a final determination is made in this matter.

Very truly yours,


John F. Conaway
Regional Director
Food Stamp Program

Attachment

PLFF's EX 2

PLAINTIFF'S EXHIBIT NO. 2

April 29, 1974

United States Dept. of Agriculture
Northeast Region - Manhattan Field Office
Food and Nutrition Service
252 7th Avenue - 21
New York, New York 10001

RE: SCHUYLER MARKET, INC.

At: Mr. J. J. Gregas
Officer in Charge, Manhattan Field Office

Gentlemen:

I am the attorney for Schuyler Market, Inc. and make this reply on behalf of Schuyler Market, Inc. to the charges listed in your letter dated April 1, 1974.

My client advises that this letter is the first notice, oral or written, received by it of any violations of the regulations governing the Food Stamp Program.

At the time of the alleged violations charged, no one on behalf of your department made mention of any of these violations to the clerks or manager or any supervisor that these violations took place.

All employees working at the check-out counters are cautioned to accept food stamps only for food items for human consumption. None have been authorized to do otherwise. They were also told not to give change in cash or purchase for cash any food stamps.

If any clerk did violate such regulations (the clerks deny it) it was without authorization or consent or knowledge of management.

My client denies the allegations contained in each and every charge listed in your letter.

It is rather curious that client should be first notified of these alleged violations eleven months after the alleged occurrences when possible witnesses or circumstances could so change as to effect its defenses.

Client also advises that at some time subsequent to the dates mentioned in your charges, a representative of your department talked with Mr. De Martino and asked for the names of employees of Schuyler Market, Inc. Mr. De Martino gave him the names of the

PLAINTIFF'S EXHIBIT NO. 2

employees mentioned in the charges. No mention was made at that time of the reasons for wanting these names or that they or Schuyler Market were being accused of violating the Food Stamp Regulations.

Incidentally, my client has recently installed a newly developed cash register which shows a breakdown of the products sold. One of the items separately listed is food stamps. These registers were installed in September 1973. I point this out only as an illustration of the attempts of my client for greater efficiency in the operation of its business.

On behalf of my client, I respectfully request an open, oral hearing before an appropriate administrative officer where witnesses of my client as well as the accusers may face each other and be subject to cross-examination.

Very truly yours,

Samuel Cursky

SG/w

Certified Mail
RRR

RECEIPT FOR CERTIFIED MAIL—30¢

SENT TO	AGRICULTURE	POSTMARK OR DATE
UNITED STATES DEPT. OF		
STREET AND NO. Northeast Region	Field Office	
252-7th Ave. -2T		
P. O. STATE, AND ZIP CODE		
NY New York, New York 10001		
EXTRA SERVICES FOR ADDITIONAL FEES		
<input type="checkbox"/> Return Receipt Shows to whom and date delivered	<input type="checkbox"/> Shows to whom, date, and where delivered	<input type="checkbox"/> Deliver to Addressee Only Shows to whom, date, and where delivered
<input type="checkbox"/> 10¢ fee	<input type="checkbox"/> 35¢ fee	<input type="checkbox"/> 50¢ fee



POD Form 3800 NO INSURANCE COVERAGE PROVIDED—
Mar. 1956 NOT FOR INTERNATIONAL MAIL

077044
INSURED NO.

DATE DELIVERED

4/30

Be sure to follow instructions on other side

1 SERVICE(S) INDICATED BY CHECKED BLOCK(S)
additional charges required for these services
Address
Deliver ONLY
to addressee

RECEIPT
Indicate the numbered article described below

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

1. *100-924*

2. *W. J. C. F.*

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

PLAINTIFF'S

EXHIBIT

U. S. Dist. Court
S. D. of N. Y.

PLAINTIFF'S EXHIBIT No. 3

ATES DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE

NORTHEAST REGION
729 ALEXANDER ROAD
PRINCETON, NJ 08540

3

ERTIFIED MAIL - Return Receipt Requested

selor-At-Law
c., D/B/A Pioneer

689 COLUMBUS AVENUE
New York, New York 10017

MAY 20 1974

Dear Mr. Gursky:

In your April 29, 1974, letter to Mr. Joseph Gregas, the Manhattan Officer-In-Charge, you asked that a hearing or conference be held on the charges against your client, Natale De Martino, President of Schuyler Market, Inc., D/B/A Pioneer.

Neither the Food Stamp Act nor the Regulations provides for such a hearing at this time. In accordance with Section 272.6(c) of the Food Stamp Program Regulations (copy enclosed), your reply on behalf of Schuyler Market, Inc., D/B/A Pioneer will be carefully considered along with the investigative evidence and other case material in making a final determination. If it is determined that Schuyler Market, Inc., D/B/A Pioneer should be disqualified and the President of the Corporation, Natale De Martino is aggrieved by the determination, he will have the right to request an administrative review by the Food Stamp Review Officer, as provided for in the Food Stamp Act of 1964 (copy enclosed) and the Program Regulations. As the Regulations provide, he may have an opportunity to appear before the Review Officer at that time, if he requests it.

Sincerely,

John F. Conaway
Regional Director
Food Stamp Program

Enclosures

PLTF'S EX 4

PLAINTIFF'S EXHIBIT NO. 4

JUL 11 1974

CERTIFIED MAIL - Return Receipt Requested

Natale DeMartino, President
Schuyler Market, Inc. d/b/a Pioneer
689 Columbus Avenue
New York, New York 10025

Dear Mr. DeMartino:

Administrative review and evaluation have been made of the information and evidence available to us relating to our letter of charges dated April 1, 1974, including your untimely reply of April 29, 1974. Based on the review of the information and evidence, and pursuant to Section 272.6 (c) of the Food Stamp Regulations, it is the determination of the Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture:

1. That you or your employees violated the regulations governing the Food Stamp Program, 7 C.F.R. 270-274, in the manner specified in the letter of charges to you dated April 1, 1974.
2. That Schuyler Market, Inc., d/b/a Pioneer, under the direction of Natale DeMartino, shall be disqualified from the privilege of participation in the Food Stamp Program for a period of one year.

Therefore, you are hereby notified that Schuyler Market, Inc. d/b/a Pioneer, under the direction of Natale DeMartino, is disqualified from participation in the Food Stamp Program and authorization number 0057622 is revoked effective ten calendar days from your receipt of this notice.

However, you may apply for reinstatement beginning ten days prior to the expiration of the one year period of disqualification. If your application is approved, you will be issued a new authorization number and card upon completion of your disqualification period.

Authorization card 0057622 and all posters, forms, and other official material relating to the program must be surrendered on the above effective date to Mr. Joseph Gregas, Officer-In-Charge, U.S. Department of Agriculture, Food and Nutrition Service, Veterans Administration Building - 2T, 252 Seventh Avenue, New York, New York 10001.

PLAINTIFF'S EXHIBIT NO.4

-2-

Banks and wholesalers will be notified not to accept coupons from your store after the effective date of this order. Any acceptable coupons on hand at that time may be redeemed if they are presented to Mr. Joseph Gregas for examination within three days after the effective date.

This determination of disqualification shall be final unless you submit a written request for review to the Food Stamp Review Officer, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C., 20250, prior to said effective date. If a timely request for review is made, administrative action will be held in abeyance, as provided in Part 273 of the regulations, until a decision on your request has been made by the Food Stamp Review Officer. A copy of the regulations governing the Food Stamp Program is attached for your information in this regard.

This action is taken under the authority of Section 272.6 (a) of the regulations governing the Food Stamp Program.

This determination of disqualification from participation in the program shall not preclude the Department of Agriculture or any other agency or department of the United States from taking further action to collect any claim determined under the regulations governing the Food Stamp Program or under any other pertinent statutes or regulations, nor shall this determination preclude prosecution under any applicable penal statutes.

Sincerely,

Regional Director
Food Stamp Program

Attachment

CC: CERTIFIED MAIL - Return Receipt Requested

Samuel Gursky
Counselor at Law
342 Madison Avenue
New York, New York 10017

PLTF'S EX 5

PLAINTIFF'S EXHIBIT NO.5

July 16, 1974

Food Stamp Review Officer, FNS
U.S. Department of Agriculture
Washington, D.C. 20250

Dear Sir:

Request for Review on behalf of
Schuyler Market, Inc.

Schuyler Market, Inc., whose address is 639 Columbus Avenue, New York, N.Y. by the undersigned as its counsel requests a review of the administrative determination of the Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, by its letter dated July 11, 1974, signed by John F. Conaboy, Regional Director, Food Stamp Program, stating that Schuyler Market, Inc., d/b/a Pioneer, under the direction of Natale DeMartino, shall be disqualified from the privilege of participation in the Food Stamp Program for a period of one year.

Information in support of the request showing the grounds on which the review is being sought will be filed in writing at a later date.

A request is also made for an opportunity to appear before the Food Stamp Review Officer in person. A request is also made that the persons who alleged the violations contained in the letter dated April 1, 1974 be required to appear before such Review Officer and be questioned by counsel.

In the first paragraph of the letter dated July 11, 1974, the remark is made "including your untimely reply of April 29, 1974". May I call your attention to the fact that by letter of the acting regional director dated April 17, 1974, I was given until the close of business on April 30, 1974 to reply to the letter of charges. The post office receipt in my possession discloses that the reply dated April 29, 1974 was received by your regional director's office on April 30, 1974. By reason of the foregoing, is there any significance to be attached to the remark of "untimely reply"?

Sincerely,

Samuel Gursky

Certified Mail
R.R.

PLFF'S EX 6

PLAINTIFF'S EXHIBIT NO. 6

July 22, 1974

Food Stamp Review Officer, FNS
U.S. Department of Agriculture
Washington, D.C. 20250

Dear Sir:

Re: Schuyler Market, Inc.
689 Columbus Avenue
New York, N.Y. 10025

Request for Review

On July 16, 1974 I mailed to you, via certified mail, request for review of a determination of the Regional Director of the Northeast Region dated dated July 11, 1974, on behalf of the above named client. The post office receipt indicates that this request was received by your office on July 18, 1974.

I am now enclosing herewith affidavits of Natale DeMartino, Peter DeMartino and Jean Parks in support of such request for review.

I repeat the request for an opportunity to appear before the Food Stamp Review Officer in person and those individuals who charged the alleged violations also be required to appear.

Sincerely,

Samuel Gursky

SG:SS

RECEIPT FOR CERTIFIED MAIL

SENT TO
Food Stamp Review Office

STREET AND NO.
U.S. Dept of Agriculture

P. O. STATE, AND ZIP CODE
Washington, D.C. 20250
EXTRA SERVICES FOR ADDITIONAL FEES
Turn Receipt
Shows to whom,
and date,
Shows to whom,
date, and where
delivered

SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECK
(Additional charges required for these services)

Show address
where delivered

Deliver ONLY
to addressee

RECEIPT
Received the numbered article described below

REGISTERED NO.

LIB. NO.

SEARCHED 6/16/99 INDEXED NO Page 20

Peter R. Schimboe
Signature of Addressee's Agent, if any

PLTF's Ex 7

1-5140 1-5140
PLAINTIFF'S EXHIBIT NO. 7
UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE
WASHINGTON, D.C. 20250

JUL 24 1974

CERTIFIED MAIL - Return Receipt Requested

Mr. Samuel Gursky
Counselor At Law
342 Madison Avenue
New York, New York 10017

Dear Mr. Gursky:

I received your July 16 letter in which you request a review of the proposed disqualification of Schuyler Market, Inc., from participation in the Food Stamp Program. I shall be glad to arrange for this review. Mr. Marshall F. Spear of my office will serve as the Food Stamp Review Officer. Further correspondence should be addressed to him as Food Stamp Review Officer, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

I am writing the Director of the Food Stamp Division to withhold further action on this proposed disqualification until the review has been completed and Mr. Spear has advised you of his determination. Thus, your client may continue to accept Food Stamp coupons at his store in accordance with the Food Stamp Program Regulations until that time.

You also requested that the persons who alleged the violations contained in the letter dated April 1, 1974 be required to appear before the Review Officer and be questioned by counsel. Formal discovery procedures and an adversary hearing are not required by the Food Stamp Act nor contemplated by the Regulations. Thus, neither testimony by Department witnesses nor cross-examination of such witnesses is included as a part of either disqualification or administrative review procedures. However, the Act does provide for a trial de novo in the U.S. District Court or a State court of competent jurisdiction in case your client is not satisfied with the Review Officer's determination.

Information in support of your position should be submitted to Mr. Spear by August 13, 1974.

7/25/74

Deft's Ex 9 is
12524-#

PLTF'S EX 8

PLAINTIFF'S EXHIBIT NO. 8

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE
WASHINGTON, D.C. 20250CERTIFIED MAIL - Return Receipt Requested

SEP 18 1974

Mr. Samuel Gursky
 Counselor at Law
 342 Madison Avenue
 New York, New York 10017

Dear Mr. Gursky:

The following concerns your request for an administrative review of the decision of the Food Stamp Division disqualifying Schuyler's Market, Inc. and Natale De Martino, as President, from participation in the Food Stamp Program for a period of one year. In reaching a decision in this case, I have given careful consideration to the information you have submitted in support of your position that this period of disqualification should not become effective.

Schuyler's Market, Inc. was authorized to participate in the program in August of 1970. Since that time and prior to the alleged violations, four visits were made to the store by Food Stamp personnel. Mr. De Martino was interviewed during three of these visits. During these visits he was advised of the possibility of program violations occurring at the store and was warned that such violations might well result in disqualification. This was later confirmed in writing.

The file furnished me discloses that during an assessment of compliance with Food Stamp Regulations at Schuyler's Market, ineligible nonfood items were purchased with Food Stamp coupons on each of seven separate occasions. Thirty-one of 63 items purchased were ineligible including, light bulbs, mop heads, polish, spot remover and various other household items. Two clerks were identified at three sales and four sales were by unidentified clerks. Cash or excessive credit slips were improperly returned as change at four sales. In addition, on May 30, June 4 and 6, 1973, Natale De Martino is alleged to have discounted a total of \$330.00 in Food Stamp coupons for \$165.00 in cash. These violations were fully set forth in a Letter of Charges issued on April 1, 1974.

After giving due consideration to your reply to these charges, the Food Stamp Division issued a Notice of Determination dated July 11, 1974, disqualifying Schuyler's Market from participation in the program for a period of one year. On July 16, 1974 you requested an administrative review and meeting re this decision. Such a meeting was held on September 13, 1974 with yourself and Mr. Natale De Martino present.

Def's Ex 10
 12/5/74 - P

PLAINTIFF'S EXHIBIT NO. 8

Mr. Samuel Gursky
Counselor at Law

2

Information submitted at this meeting and previously in writing may be summarized as follows.

You attached to your written reply sworn affidavits from those specifically identified in the alleged violations, namely, Natale De Martino, Peter De Martino and Jean Parks. All denied the violations attributed to them in the charge letter. Each made a point that they had never been confronted with any violations and their first knowledge thereto was upon receipt of the charge letter.

At our meeting Mr. Natale De Martino repeated the substance of his affidavit and again denied that never at any time had he knowingly violated the Regulations in the manner set forth in the charge letter.

I regret that I cannot accept these denials. It is my finding that the violations did in fact occur substantially as outlined. Further, I find the violations on the part of Mr. Natale De Martino to be willfully and deliberately committed. Statements made by him at the time show, not only a solicitation to discount coupons, but a desire to continue discounting at any time in the future.

I would like to emphasize that participating grocers are an essential factor in program compliance. Unless they consistently and diligently abide by program requirements, the program cannot fully accomplish its objectives and may, in fact, be wholly ineffective. The indiscriminate sale of ineligible nonfood items for Food Stamp coupons and the discounting of same for cash substantially reduces the amount available for recipients to purchase food items. Thus, the basic objective of the Food Stamp Program namely, to improve nutrition in the diets of needy families is nullified.

Again based on the information before me, I must find that the violations set forth in the April 1, 1974 Letter of Charges did occur. Certain of these violations were willful, extremely damaging to the program and must be held to have been committed with utter disregard for Program Regulations.

It is, therefore, my determination that the one year period of disqualification proposed against Schuyler's Market, Inc. and Natale De Martino, as president and manager, by the Director of the Food Stamp Division is fair and proper. I am sustaining that decision. In accordance with the Food Stamp Act and the Regulations thereunder, this period of disqualification shall begin 15 days after your receipt of this letter. A re-application for participation may be submitted 10 days prior to the termination of the disqualification.

PLAINTIFF'S EXHIBIT NO. 8

3

Mr. Samuel Gursky
Counselor at Law

Your attention is called to Section 13 of the Food Stamp Act and to Section 273.10 of the Regulations with respect to your right to a judicial review of this determination. Please note that if a judicial review is desired, the complaint to the court must be filed within 30 days of your receipt of this letter. Earlier action is desirable if you wish to seek from the court a stay in the disqualification action, pending the court's review of the matter.

Very truly yours,

Marshall F. Spear

Marshall F. Spear
Food Stamp Review Officer
Food and Nutrition Service

STATE OF NEW YORK }
COURT OF NEW YORK } ss.:

NATALE DeMARTINO, being duly sworn:

I am the President of Schuyler Market, Inc. and make this affidavit in reply to the letter of charges dated April 1, 1974.

All employees who are expected to work at the check-out counters have been told by me that food stamps may be accepted only for food for human consumption; they were also told that food stamps may not be exchanged for cash.

I have read the letter of charges dated April 1, 1974 and I specifically deny each and every allegation contained therein. In those instances where a specific employee is charged with a violation, an affidavit of such employee is attached. Where it is alleged that I personally violated the food stamp regulations such as in paragraphs 9, 10 and 6, I specifically deny the truth of same.

No representative of the Department of Agriculture approached me or any of the employees of Schuyler Market, Inc. on the dates of the alleged violations to complain or point out any of those alleged violations.

At a time much later than the dates mentioned in your letter of charges, some one from the Department of Agriculture approached me at the store and asked for the names of persons regularly employed. I gave him the names of the three persons who are mentioned in the letter of charges. Even at that time, nothing was said to me as to the reason for the names. I gave him the names because he appeared to be and identified himself as a representative of the Department of Agriculture.

PLAINTIFF'S EXHIBIT NO. 9

I heard nothing further from the Department of Agriculture for a period of approximately eleven months, when the letter of charges dated April 1, 1974 was received.

Patricia De Martinez

Sworn to before me this

19 day of July, 1974

Mariana M. Ertzen
Notary Public, State of New York
No 66-1124700
Qualified in Westchester County
Term exp. 3/30/75

PLAINTIFF's EXHIBIT NO.9

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

PETER DE MARTINO, being duly sworn, deposes and says:

I am employed by Schuyler Market, Inc. I am told that under charge 5 of the letter dated April 1, 1974 I am accused of accepting \$10.00 in food coupons in exchange for merchandise which was not food for human consumption on May 29, 1974.

I specifically deny such charge. I also state that no one approached me on May 29, 1973 either as a representative of the Department of Agriculture or otherwise and called my attention to any such violation of the Food Stamp regulations. The first time I learned of any such charge or accusation was when my attention was called to such allegation in the letter of the Department of Agriculture dated April 1, 1974 about eleven months after the alleged incident.

Peter De Martino

Sworn to before me this

17 day of July, 1974

Peter De Martino

Notary Public, State of New York
No. 60-1124700

PLAINTIFF'S EXHIBIT NO. 9

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

JEAN PARKS, being duly sworn, deposes and says:

I am told that, on or about May 23, 1973 while in the employ of Schuyler Market, Inc., I had accepted \$8.00 in food coupons and \$6.00 in food coupons in exchange for merchandise which was not food for human consumption.

I deny that I have ever accepted food coupons for merchandise other than food.

I was never confronted or told by any inspector of the Department of Agriculture or anyone else that I had violated the food stamp regulations on May 23, 1973 or any other day except that I was subsequently informed by Mr. DeMartino of the letter of charges dated April 1, 1974, eleven months after the alleged violations.

Jean Parks

Sworn to before me this

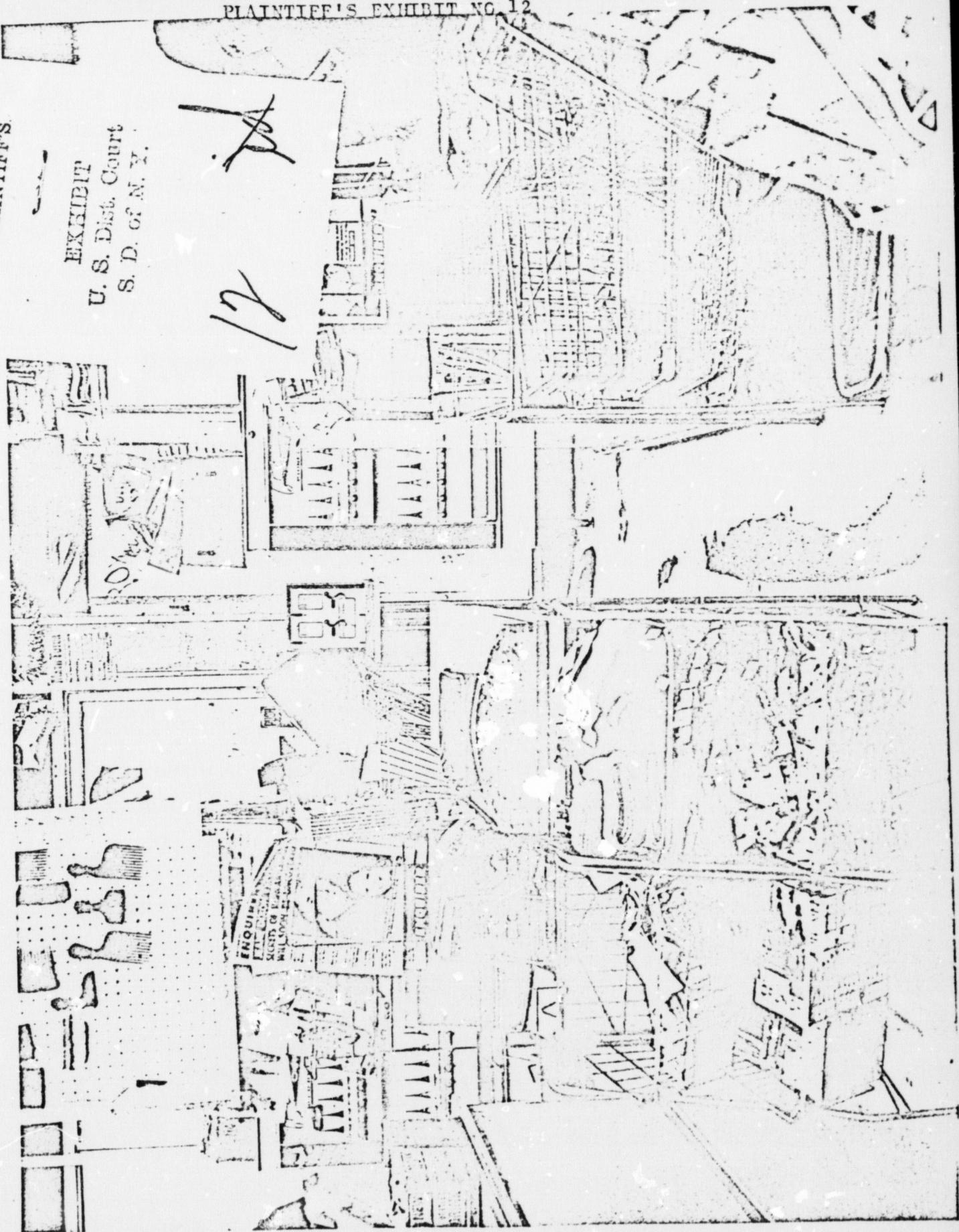
19 day of July, 1974

John L. Egan
Notary Public, State of New York
No. 451 860
Qualified in Nassau County
Com. exp. 3/30/76

PLAINTIFFS

EXHIBIT
U. S. Dist. Court
S. D. of N. Y.

PLAINTIFF'S EXHIBIT NO. 12



PGFs Ex 13



DEFT'S EX-A

DEFENDANT'S EXHIBIT A

NORTHEAST REGION - MANHATTAN FIELD OFFICE

252 - 7TH AVENUE - 27
NEW YORK, NEW YORK 10001

Certified Mail - Return Receipt Requested
Certificate No. 422902

May 31, 1972

Mr. Natale DeMartino
Schyler Market, Inc.
689 Columbus Avenue
New York, New York 10025

Dear Mr. De Martino:

This is to confirm a visit with you at your store by our Representative, Mr. C. Dixon, on May 24, 1972.

During his visit he discussed your unusually high rate of coupon redemptions. He pointed out to you that your redemption rate is much higher than that of other stores in the area. He indicated his concern that this high rate might indicate the presence of violations of the Food Stamp Program Regulations in your store. You stated that no violations were occurring. You confirmed your 1971 gross and food sales and explained that a newly low-income apartment development located at 50 W. 93rd Street and 70 W. 93rd Street was opened in February which has caused an increase in your food stamp sales. You stated that you are opened seven (7) days a week for which other stores in the area were not. You also stated that you carry many specials.

He completely reviewed the regulations governing food coupon transactions with special emphasis on those which prohibit sales of ineligible items (Sections 270.2 (e) and 272.2(b)), payment of back bills with coupons (Section 272.2(e)), and repayment of cash loans with coupons, (Section 272.2(b)).

A copy of the Food Stamp Program Regulations is enclosed for your review.

You should take special care to prevent violations because they may lead to your disqualification from the Food Stamp Program. You are responsible for violations committed by your employees. Therefore, it is vital that you make sure all your employees, including new and part-time employees, know the program regulations and adhere to them.

If we can help you in any other way to meet your responsibility as an authorized retailer in the Food Stamp Program, please let us know.

Very truly yours,

J. J. Gregas
Officer-In-Charge
Manhattan Field Office

Enclosure

JJG/ab Readers: JJG/ -31-

Deft's Ex-1
5/31/74 R

DEFENDANT'S EXHIBIT A

NORTHEAST REGION - MANHATTAN FIELD OFFICE

252 - 7TH AVENUE - 2T
NEW YORK, NEW YORK 10001

FSP - Special Compliance Report
Schuyler Market, Inc. Authorization No. 0057622
James Keefer, Director
Food Stamp Division, FNS
USDA, South Building
Washington, D. C. 20250

May 31, 1972

Enclosed is one (1) copy of a Special Compliance Report No. FI 72-296 on the subject store.

J. J. Gregas
Officer-In-Charge
Manhattan Field Office

Enclosure

JJC/ab

JJC/ Readers:

DEFENDANT'S EXHIBIT B

DEFENDANT'S

0057622

PAID

1-30
210

EXHIBIT
U. S. Dist. Court
Syracuse, N.Y.

SEARCHED *β*

JK

DEFENDANT'S EXHIBIT C

DEFENDANT'S

EXHIBIT
U. S. Dist. Court
S. D. of N. Y.

[Handwritten signature]

6-E14465886A
25 \$5.00 coupons: 6-E14465887A

Redemption Certificate, dated 6/5/73
from subject store. *[Signature]*

Description

To Be Returned Yes Receipt Given Yes

By _____ (NAME OF SPECIAL AGENT - AUDITOR)

David J. Ricks

(CITY AND STATE)

NEW YORK, New York

(ADDRESS OF CONTRIBUTOR)

A.F. Ulrich, Banking Officer,
Manufacturers Hanover Company
90 West 96th Street
New York, New York

Date Received
5 June 1973

File No. N-2745-1415

(3-69)
OIG 2000-20

DEFT'S EX-D

DEFENDANT'S EXHIBIT D

Date 23 May 73
Place New York
N.Y.

I, NYDIA CABASSA, make the following statement freely and voluntarily to DAVID J RICKS who has identified himself to me as a Special Agent of the Office of the Inspector General, United States Department of Agriculture, knowing this statement may be used in evidence.

I am 23 years old. I reside at 72 GRAYSON Street Hoboken, New Jersey. My occupation is Housewife.

On 23 May 1973 (Date) at about 11 (Time), I accompanied Agent RICKS to the vicinity of SCHUYLER MARKET, Inc. (Name of store) at 689 Columbus Ave, New York, N.Y. (Store address)

I surrendered to Agent RICKS all my personal cash and he furnished me with food coupon books containing a total value of \$ 8.00 consisting of 4 coupons, 0 3 coupons (and 0 loose coupons of the value of \$ each). I did not have any cash in my possession.

I entered the store and noted it WAS (was) a self-service store.

I was served by a male/female clerk whom I would describe as being about 25 years old, about 5'6" tall, and weighing about 130 pounds.

In addition, I noticed the following identifying characteristics:

SAME CLERK THAT SERVED RUTH D. OLIVERAS

During the check-out, the food coupon book (s) WAS (was) in plain view

RIG-N-2700-6
Apr 72

- 1 -

N.C.

DEFENDANT'S EXHIBIT D

of the clerk who served me. I gave the clerk One book (s) containing 4 food coupons with a total value of \$ 8.00 (and loose coupons of 3).

The clerk Did Not (did) (did not) ask for identification and Did Not (did) (did not) check the signature on the coupon book (s). At the check-out counter there Was (was) One person (s) in line ahead of me and One person (s) in line behind me.

All of the following items were delivered to me by the clerk, at a total cost of \$ 5.55.

ITEM - (INELIGIBLE)	Cost	ITEM - (Eligible)	Cost
1 Bottle L-Soln (Learner)	.59	1 Loaf Bread	.30
1 Bottle Shampoo Detergent	.73	1 Pack Taylor's Beef Taysrips	.79
1 Box Reynolds Aluminum Foil	.29	1 Can Cafe Bustelo Coffee	.97
1 Long Bread		1 Box Duryea Corn Starch	.29
1 Pack Taylor's Beef Taysrips		1 Package Meadow Gold Cheddar Cheese	N.M
1 Can		1 Six Pack Peps. Cols	.89

The clerk extracted 3 coupons of \$.2 each from my book (s) and returned the book (s) with 1 \$.200 coupons to me. The clerk also accepted — loose coupons of \$ — denomination.

The clerk gave me change of \$.45 consisting of the following:

Cash	\$ <u>—</u>
50¢ coupons	\$ <u>—</u>
\$2.00 coupons	\$ <u>—</u>
Due bills	\$ <u>.459</u>

I had also selected the following items which the clerk refused to sell to me for food coupons:

RIG-N-2700-6
Apr 72

- 2 -

N.C.

DEFENDANT'S EXHIBIT D

None

In delivering the items to me the clerk made the following comments:

None

After the transaction was completed I returned to the Agent and delivered to him the items purchased, the food stamps remaining and the items received in change from the clerk. The Agent returned to me the cash which I had left with him before entering the store.

I Am Not a Food Stamp recipient and Am Not a regular
(am) (am not) (am) (am not)
customer of this store. I Am Not acquainted with the personnel of
(am) (am not)
this store.

Other comments: None

I have read this statement consisting of three pages and it is true and correct. I have signed or initialed each page and have been given the opportunity to make any corrections or additions.

Myra Sabassa

Witness:

David Joseph Ricks

Special Agent

Office of Inspector General, USDA

DEFT EX E

DEFENDANT'S EXHIBIT E

Date 24 May 1973

Place New York

New York

I, Midia Abassa, make the following statement freely and voluntarily to David J Ricks who has identified himself to me as a Special Agent of the Office of the Inspector General, United States Department of Agriculture, knowing this statement may be used in evidence.

I am 23 years old. I reside at 72 Garden St, Hoboken
New Jersey. My occupation is Housewife.

On 24 May 1973 (Date) at about 1020 AM (Time), I accompanied Agent Ricks to the vicinity of Schuyler Market, Inc. (Name of store)
Alba Pioneer at 689 Columbus Ave, New York, New York. (Store address)

I surrendered to Agent Ricks all my personal cash and he furnished me with food coupon books containing a total value of \$ 10.00 consisting of 5 coupons, 3 ~~cl~~ coupons (and — loose coupons of the value of \$ — each). I did not have any cash in my possession.

I entered the store and noted it WAS (was) a self-service store.

I was served by a male/female clerk whom I would describe as being about 27 years old, about 5'2" tall, and weighing about 125 pounds.

In addition, I noticed the following identifying characteristics:

None

During the check-out, the food coupon book (s) WAS (was) in plain view

(were)

DEFENDANT'S EXHIBIT E

of the clerk who served me. I gave the clerk 1 book (s) containing 5 food coupons with a total value of \$ 100 and loose coupons of \$ —.

The clerk did not ask for identification and did not check (did) (did not) the signature on the coupon book (s). At the check-out counter there 6.25 (was) one person (s) in line ahead of me and one person (s) in (were) line behind me.

All of the following items were delivered to me by the clerk, at a total cost of \$ 10.00.

ITEM - (INELIGIBLE)	Cost
1 Pack General Electric Light Bulbs	N.m
1 Bonze (Arizona Sport Lamp) 55	
1 Can Easy Off Oven Cleaner	79
1 Box (6) Detergent Dags	\$1.89
1 Can Comet Cleaners	.22c
1 Box Mennen Paper Napkins	.239

ITEM - (ELIGIBLE)	Cost
2 Packages Cherries	\$1.63
1 Box Pepperidge Farm Cookies	N.m
1 Bottle Kraft Bar-B-Q Sauce	49¢
1 6 Pack Yoo Hoo Chocolate Drink	N.m
1 Package Chicley gum	39¢

The clerk extracted 5 coupons of \$.2 each from my book (s) and returned the book (s) with 0 \$ — coupons to me. The clerk also accepted — loose coupons of \$ — denomination.

The clerk gave me change of \$ — consisting of the following:

Cash	\$ <u>—</u>
50¢ coupons	\$ <u>—</u>
\$2.00 coupons	\$ <u>—</u>
Due bills	\$ <u>—</u>

I had also selected the following items which the clerk refused to sell to me for food coupons:

DEFENDANT'S EXHIBIT E

None

In delivering the items to me the clerk made the following comments:

None

After the transaction was completed I returned to the Agent and delivered to him the items purchased, the food stamps remaining and the items received in change from the clerk. The Agent returned to me the cash which I had left with him before entering the store.

I Am Not a Food Stamp recipient and Am Not a regular
(am) (am not) (am) (am not)
customer of this store. I Am Not acquainted with the personnel of
(am) (am not)
this store.

None

Other comments:

I have read this statement consisting of three pages and it is true and correct. I have signed or initialed each page and have been given the opportunity to make any corrections or additions.

Myra Caesar

Witness:

David Joseph Ricks

Special Agent
Office of Inspector General, USDA

DEFT EYF

DEFENDANT'S EXHIBIT F

Date 30 May 1973

Place New York

New York

I, Nidia CARASSA, make the following statement freely and voluntarily to David J. Ricks who has identified himself to me as a Special Agent of the Office of the Inspector General, United States Department of Agriculture, knowing this statement may be used in evidence.

I am 23 years old. I reside at 72 Garden St, Hoboken
New Jersey. My occupation is Housewife.

Pioneer at 689 Columbus Ave, New York, New York. (Name of store)
D (Store address)

I surrendered to Agent Ricks all my personal cash and he furnished me with food coupon books containing a total value of \$ 400 consisting of 2 2 coupons, 3 coupons (and — loose coupons of the value of \$ 5 each). I did not have any cash in my possession.

I entered the store and noted it was (was) (was not) a self-service store.

I was served by a male/female clerk whom I would describe as being about 30 years old, about 5'4" tall, and weighing about 155 pounds.

In addition, I noticed the following identifying characteristics:

Wore Black Framed Glasses

During the check-out, the food coupon book (s) WAS (was) (were) in plain view

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115.

DEFENDANT'S EXHIBIT F

of the clerk who served me. I gave the clerk 1 book (s) containing 2 food coupons with a total value of \$ 4.00 (and loose coupons of \$ 0.00).

The clerk did not ^{(did) (did not)} ask for identification and did not ^{(did) (did not)} check the signature on the coupon book 's). At the check-out counter there we ^(was) two ^(were) person (s) in line ahead of me and one person (s) in line behind me.

All of the following items were delivered to me by the clerk, at a total cost of \$ 3 70.

The clerk extracted 2 coupons of \$ 2.00 each from my book (s) and re-turned the book (s) with 1 \$ 1 coupons to me. The clerk also accept-ed 1 loose coupons of \$ 1 denomination.

The clerk gave me change of \$ 30¢ consisting of the following:

Cash	\$	_____
50¢ coupons	\$	_____
\$2.00 coupons	\$	_____
Due bills	\$	30¢

I had also selected the following items which the clerk refused to sell to me for food coupons:

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DEFENDANT'S EXHIBIT F

None

In delivering the items to me the clerk made the following comments:

None

After the transaction was completed I returned to the Agent and delivered to him the items purchased, the food stamps remaining and the items received in change from the clerk. The Agent returned to me the cash which I had left with him before entering the store.

I Am Not a Food Stamp recipient and Am Not a regular
(am) (am not) (am) (am not)
customer of this store. I Am Not acquainted with the personnel of
(am) (am not) this store.

Other comments: I SAW A man About 55 yrs old WITH Black & grey HAIR take a
book of Coupons From Ruth D Oliverus, he took them to Another man About 45 yrs old, 30
pounds, Long Black hair parted in the middle. He Came back & gave Ruth some Money. I told him
I could get some Coupons, he said "Anytime you can get more, bring them in to me."

I have read this statement consisting of three pages and it is true and correct. I have signed or initialed each page and have been given the opportunity to make any corrections or additions.

—n.g. Calvera

Witness:

David Finch Rinker

Special Agent
Office of Inspector General, USDA

DEFT'S EX G

DEFENDANT'S EXHIBIT G

Date MAY 23 / 73
Place NEW YORK, NEW YORK

I, RUTH D. OLIVERAS, make the following statement freely and voluntarily to DAVID J. RICKS who has identified himself to me as a Special Agent of the Office of the Inspector General, United States Department of Agriculture, knowing this statement may be used in evidence.

I am 21 years old. I reside at 72 GARDEN STREET, HOBOKEN, NEW JERSEY. My occupation is HOUSEWIFE.

On RICKS (Date) at about (Time), I accompanied Agent SCHUYLER MARKET, INC. (Name of store) to the vicinity of 689 COLUMBUS AVENUE, NEW YORK, NEW YORK. (Store address)

I surrendered to Agent RICKS all my personal cash and he furnished me with food coupon books containing a total value of \$10.00 consisting of 5 20 coupons, 3 coupons (and loose coupons of the value of \$ each). I did not have any cash in my possession.

I entered the store and noted it WAS (was) a self-service store.

I was served by a male/female clerk whom I would describe as being about 25 years old, about 5'6" tall, and weighing about 130 pounds.

In addition, I noticed the following identifying characteristics:

BROWN HAIR, BROWN EYES, MEDIUM COMPLEXION, THREE SILVER BRACELETS, WHITE WEDDING BAND, SAME CLERK WHO SERVED NYDIA CABASSA

During the check-out, the food coupon book (s) WAS (was) in plain view (were)

R. D. O -

RIG-N-2700-6
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DEFENDANT'S EXHIBIT G

of the clerk who served me. I gave the clerk one book (s) containing 5 food coupons with a total value of \$ 10- (and loose coupons of 3-).

The clerk DID NOT ask for identification and DID NOT check (did) (did not) the signature on the coupon book (s). At the check-out counter there WERE (was) NO person (s) in line ahead of me and NO person (s) in line behind me.

All of the following items were delivered to me by the clerk, at a total cost of \$ 7.50.

ITEM - (INELIGIBLE)	Cost
1 SELECTO MOP HEAD	<u>\$.79</u>
1 SELECTO DOWL FRESHENER	<u>.25</u>
1 BOX SWEETHEART SOAP	<u>.49</u>
1 PACK HAND NEEDLES	<u>.40</u>
1 PACK 50 LIGHTBULBS	<u>.70</u>
1 Box Q-DYNS THREAD	<u>.59</u>

ITEM - (Eligible)	Cost
1 CAN BUSTELO COFFEE	<u>\$.97</u>
1 BAG SEDA RICE	<u>1.34</u>
1 6-PACK PEPSI COLA	<u>.44</u>
1 Box DOMINO SUGAR	<u>.47</u>

The clerk extracted 4 coupons of \$ 2.00 each from my book (s) and returned the book (s) with 1 \$ 2.00 coupons to me. The clerk also accepted _____ loose coupons of 3 _____ denomination.

The clerk gave me change of \$ 0.50 consisting of the following:

Cash	\$ _____
50¢ coupons	\$ _____
\$2.00 coupons	\$ _____
Due bills	\$ <u>0.50</u>

I had also selected the following items which the clerk refused to sell to me for food coupons:

RIG-N-2700-6

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- 2 - R. D. O.

DEFENDANT'S EXHIBIT G

NONE

In delivering the items to me the clerk made the following comments:

SHE ASKED "ARE YOU GOING TO BUY THESE (INELISIBLES) WITH FOOD STAMPS?" THEN SHE LET ME BUY THEM ANYWAY

After the transaction was completed I returned to the Agent and delivered to him the items purchased, the food stamps remaining and the items received in change from the clerk. The Agent returned to me the cash which I had left with him before entering the store.

I AM ^{R.D.O.} AM ³³ a Food Stamp recipient and AM NOT a regular (am) (am not) (am) (am not) customer of this store. I AM NOT acquainted with the personnel of (am) (am not) this store. R.D.O.

Other comments: REDACTED NONE

I have read this statement consisting of three pages and it is true and correct. I have signed or initialed each page and have been given the opportunity to make any corrections or additions.

Ruth D. Oliveras

Witness:

David Joseph Riedy

Special Agent
Office of Inspector General, USDA

DEFT'S EXH

DEFENDANT'S EXHIBIT H

Date MAY 24 1973

Place NEW YORK, NEW YORK

I, RUTH D. OLIVERAS, make the following statement freely and voluntarily to DAVID J. RICKS who has identified himself to me as a Special Agent of the Office of the Inspector General, United States Department of Agriculture, knowing this statement may be used in evidence.

I am 29 years old. I reside at 72 GARDEN STREET, HOBOKEN, NEW JERSEY. My occupation is HOUSEWIFE.

On MAY 24 1973 (Date) at about 10:20 A.M. (Time), I accompanied Agent RICKS to the vicinity of SCHUYLER MARKET, INC. (Name of store)

at 689 COLUMBUS AVENUE NEW YORK, NEW YORK. (Store address)

I surrendered to Agent RICKS all my personal cash and he furnished me with food coupon books containing a total value of \$ 40.00 consisting of 5 coupons, 6 coupons (and — loose coupons of the value of \$ — each). I did not have any cash in my possession.

I entered the store and noted it WAS a self-service store (was) (was not)

I was served by a male/female clerk whom I would describe as being about 27 years old, about 5'2" tall, and weighing about 125 pounds.

In addition, I noticed the following identifying characteristics:

NEGRO, LIGHT BROWN HAIR, BROWN EYES, MEDIUM COMPLEXION
SAME CLERK WHO SERVED NYDIA CABASSA

During the check-out, the food coupon book (s) WERE in plain view (was) (were)

RIG-N-2700-6

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DEFENDANT'S EXHIBIT H

of the clerk who served me. I gave the clerk ONE book (s) containing
5 food coupons with a total value of \$ 10 (and loose coupons of \$ —).

The clerk Did not _{(did) (did not)} ask for identification and Did not _{(did) (did not)} check the signature on the coupon book (s). At the check-out counter there were _(was) no _(were) person (s) in line ahead of me and no person (s) in line behind me.

All of the following items were delivered to me by the clerk, at a total cost of \$ 6.17 .

ITEM - (INELIGIBLE)	Cost
1 MUG	0.49
1 ROLL PIONEER FOIL	NM
1 CAN KING INSECT SPRAY	1.19
1 Box ALLIGATOR BAGGIES	NM
1 BOTTLE OLD ENGLISH POLISH	0.39
1 EKCO PEELCK	0.49
10	

ITEM - (Eligible)	Cost
1 LOAF ARNOLD BREAD	0.43
1 CAN SOYA BEANS	0.19
1 PACK KAHN'S BACON	0.89
2 PACKS STRAWBERRIES	0.89
1 BOX TAYSTEE DONUTS	0.53

The clerk extracted 4 coupons of \$2.00 each from my book (s) and returned the book (s) with 1 \$2 coupons to me. The clerk also accepted loose coupons of \$ denomination.

The clerk gave me change of \$ 1.83 consisting of the following:

Cash	\$ 0.03
50¢ coupons <u>3</u>	\$ 1.50
\$2.00 coupons <u> </u>	\$ <u> </u>
Due bills	\$ 0.30

I had also selected the following items which the clerk refused to sell to me for food coupons:

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DEFENDANT'S EXHIBIT H

1 6-PACK SCHLITZ BEER

In delivering the items to me the clerk made the following comments:

ASKED IF I WAS GOING TO BUY THE MUG WITH FOOD STAMPS. I SAID "YES." SHE LET ME BUY IT ANYWAY

After the transaction was completed I returned to the Agent and delivered to him the items purchased, the food stamps remaining and the items received in change from the clerk. The Agent returned to me the cash which I had left with him before entering the store.

I AM a Food Stamp recipient and AM NOT a regular
(am) (am not) customer of this store. I AM NOT acquainted with the personnel of
(am) (am not) this store.

Other comments: NONE

I have read this statement consisting of three pages and it is true and correct. I have signed or initialed each page and have been given the opportunity to make any corrections or additions.

Ruth D. Oliveras

Witness:

David D. Ricks

Special Agent
Office of Inspector General, USDA

Date 29 MAY 1973
 Place New York
New York

I, Ruth D. Olivras, make the following statement freely and voluntarily to JEFFREY SCHAFFLER who has identified himself to me as a Special Agent of the Office of the Inspector General, United States Department of Agriculture, knowing this statement may be used in evidence.

I am 29 years old. I reside at 72 GARDEN ST. HOBOKEN
NEW JERSEY. My occupation is HOUSEWIFE.
 On 29 May 1973 (Date) at about 9 AM (Time), I accompanied Agent
SCHAFFLER to the vicinity of Schuyler MARKET, Inc. Clif/6/6a Pioneer
 (Name of store) at 689 COLUMBUS AVE, NEW YORK, NEW YORK.
 (Store address)

I surrendered to Agent SCHAFFLER all my personal cash and he furnished me with food coupon books containing a total value of \$ 10.00 consisting of 5 2 coupons, 3 coupons (and 1 loose coupons of the value of \$ each). I did not have any cash in my possession.

I entered the store and noted it WAS (was) (was not) a self-service store.

I was served by a male / female clerk whom I would describe as being about 35 years old, about 5'9" tall, and weighing about 200 pounds.

In addition, I noticed the following identifying characteristics:

He wore Gold Frame GLASS on Right Hand He Had A White Watch
With Black Band & A Gold Ring With Red Stone.

During the check-out, the food coupon book (s) WAS (was) (were) in plain view

R. D. D.

DEFENDANT'S EXHIBIT I

of the clerk who served me. I gave the clerk One book (s) containing Five food coupons with a total value of \$ 10.00 (and loose coupons of 3).

The clerk did not ask for identification and did not check (did) (did not) the signature on the coupon book (s). At the check-out counter there WAS (was) No person (s) in line ahead of me and No person (s) in line behind me. (were)

All of the following items were delivered to me by the clerk, at a total cost of \$ 9.32.

ITEM - (INELIGIBLE)	Cost
1 Selecto Mop Head	79¢
1 Selecto Bowl Brush	49¢
1 Bottle Parsons Ammonia	35¢
1 Bottle Ivory Liquid Detergent	43¢
1 T.V. Guide	15¢
1 Pack Snowflake Kitchen Towels	\$11.29

ITEM - (Eligible)	Cost
1 Ten Pack El Sol Malta	11¢
1 Pack Wonder Hamburger Rolls	44¢
1 Bottle Wesson Vegetable Oil	61¢
1 Pack Cherries	56¢
1 Pack Life Saver Mints	79¢
1 Can Libby Corn	23¢
1 Can Campbell's Chicken Noodle Soup	25¢

The clerk extracted 5 coupons of \$ 2.00 each from my book (s) and returned the book (s) with — \$ — coupons to me. The clerk also accepted — loose coupons of 3 — denomination.

The clerk gave me change of \$ 68¢ consisting of the following:

Cash	\$ <u> </u>
50¢ coupons	\$ <u> </u>
\$2.00 coupons	\$ <u> </u>
Due bills	\$ <u>68¢</u>

I had also selected the following items which the clerk refused to sell to me for food coupons:

DEFENDANT'S EXHIBIT I

NONE

In delivering the items to me the clerk made the following comments:

NONE

After the transaction was completed I returned to the Agent and delivered to him the items purchased, the food stamps remaining and the items received in change from the clerk. The Agent returned to me the cash which I had left with him before entering the store.

I Am a Food Stamp recipient and Am Not a regular
(am) (am not) customer of this store. I Am NOT acquainted with the personnel of
(am) (am not) this store.

Other comments: NONE

I have read this statement consisting of three pages and it is true and correct. I have signed or initialed each page and have been given the opportunity to make any corrections or additions.

Ruth A. Oliver

Witness:

Jeffrey Schaffler
Special Agent

Office of Inspector General, USDA

DEFT'S EX K

DEFENDANT'S EXHIBIT K

Date 4 June 1973

Place New York

New York

I, Ruth D. Ricks

, make the following statement freely and voluntarily to David J. Ricks who has identified himself to me as a Special Agent of the Office of the Inspector General, United States Department of Agriculture, knowing this statement may be used in evidence.

I am 29 years old. I reside at 72 Lincoln St Hoboken New Jersey. My occupation is Housewife. On 4 June 1973 (Date) at about 100 hours, I accompanied Agent Ricks (Time) to the vicinity of Schuyler Market Inc 4/6/6 (Name of store) Pioneer at 689 Columbus Ave, New York New York. (Store address)

I surrendered to Agent Ricks all my personal cash and he furnished me with food coupon books containing a total value of \$ 120.00 consisting of 24.5 coupons, — \$ — coupons (and — loose coupons of the value \$ — each). I did not have any cash in my possession.

I entered the store and noted it 627 a self-service store. SOLD COUPONS TO (was) (was not)

I was served by a male / female clerk whom I would describe as being about 45 years old, about 6'2" tall, and weighing about 165 pounds.

In addition, I noticed the following identifying characteristics:

Wears white Apron - appears to be the manager" Had long
Black hair parted in the middle

During the check-out, the food coupon book (s) 42 in plain view (was) (were)

R. D. O.

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DEFENDANT'S EXHIBIT K

THE CLERK WAS A NEGRO, ABOUT 27 YE OLD, 5'2" TALL, 125 POUNDS;
LT. BROWN HAIR, EYES BROWN, MEDIUM COMPLEXION, SAME CLERK WHO SERVED ME ON MAY 25,
of the clerk who served me. A I gave the clerk 1 book (s) containing
1 food coupons with a total value of \$ 2.00 (and loose coupons of \$ 0.00).

The clerk did not (did) (did not) ask for identification and did not (did) (did not) check the signature on the coupon book (s). At the check-out counter there was (was) 78 (were) person (s) in line ahead of me and 11 person (s) in line behind me.

All of the following items were delivered to me by the clerk, at a total cost of \$ 51.83 .

ITEM - (INELIGIBLE)	Cost
1 Can Easy Off Kitchen Cleaner	7.16
1 Bottle Thrive Dish Detergent	4.39

ITEM - (Eligible) Cost
1 C. & W. 6-oz. Dr. 4¢

The clerk extracted the coupons of \$ 2.00 each from my book (s) and returned the book (s) with one \$ 1.00 coupon to me. The clerk also accepted one loose coupon of \$ 1.00 denomination.

The clerk gave me change of \$ 174 consisting of the following:

Cash	\$	634
50¢ coupons —	\$	
\$2.00 coupons —	\$	
Duo bills	\$	154

I had also selected the following items which the clerk refused to sell to me for food coupons:

MEG-N-2700-6
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R. P. O.

DEFENDANT'S EXHIBIT K

CLERK

In delivering the items to me the clerk made the following comments:

CLERK

After the transaction was completed I returned to the Agent and delivered to him the items purchased, the food stamps remaining and the items received in change from the clerk. The Agent returned to me the cash which I had left with him before entering the store.

I am a Food Stamp recipient and I am not a regular
(am) (am not) (am) (am not)
customer of this store. I am not acquainted with the personnel of
this store. R.D.O. (am) (am not)

Other comments: REAGAN I Asked the man (Books) what I spoke to previously

I he wanted to buy my stamps HE Said "Anytime You HAVE Coupons I'll
Buy Them" I Said "Thank You" HE Said "Anytime" HE BOUGHT \$120
WORTH OF COUPONS FOR \$600 CASH.

I have read this statement consisting of three pages and it is true and correct. I have signed or initialed each page and have been given the opportunity to make any corrections or additions.

Ruth D. Oliveras.

Witness:

David Joseph Ricks

Special Agent
Office of Inspector General, USDA

DEFT'S Ex M

DEFENDANT'S EXHIBIT M

Foot Transaction Worksheet

I Case Title SCUYLER MARKET, INC

File No. N-2745-1415

II Agent DAVID J. RICKS

III Aide RUTH D. OLVERAS

IV Date of Transaction 5/23/73

Entered Store At 11:00 Left

(Time)

(Time)

V COUPONS INVOLVED IN TRANSACTION (Purchases of items or sold for cash)

a Serial No. <u>\$5.00</u> ID markings (If used)	Quantity Presented: <u>25 x</u> = <u></u>	Quantity Returned: <u>\$5 x</u> = <u></u>
--	--	--

b Serial No. <u>\$2.00 C34090065A</u> ID markings (If used)	Quantity Presented: <u>\$2 x 5</u> = <u>\$10</u>	Quantity Returned: <u>\$2 x 1</u> = <u>2</u>
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VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$ 7.50

Change received: Cash \$ 2
Due Bills \$ 0.50
\$2 Coupons = 3
50¢ " = \$

NOTE - IN EXCESS OF 0.49

Total Change received: \$

IX COUPONS DISCOUNTED OR SOLD FOR CASH

\$ 5 x = sold for cash of \$
(Quantity) (Value)

\$ 2 x = sold for cash of \$
(Quantity) (Value)

Total \$ sold for cash of \$
(Value)

X Clerk involved

Description of clerk:

Pale-Female-Race White Age 25 Height 5'6" Weight 130 Color Hair Bl
(Circle) Color eyes BR Complexion NC Wear Glasses

Other identifying info: Customer # 1234567890

Comments of clerk: ASKED AFG WH. BOUT TO BUY THEM (INC. 1000)
WITH FOOD EXPENSES. 1000.00. 1000.00. 1000.00. 1000.00.

Name(s) of person(s) assisting in transactions

David J. Ricks

David J. Ricks

Signature of OIG Representative

Date

RIG-N-2700-2

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(Over)

DEFENDANT'S EXHIBIT M
Food Lamp Transaction Worksheet

I Case Title Schuyler MKI Inc d/b/a Pioneer

File No. N-2745-1415

II Agent DAVID J RICKS

III Aide NYDIA CABASSA
Entered Store At 11 AM Left

IV Date of Transaction 23 May 1973

(Time) (Time)

V COUPONS INVOLVED IN TRANSACTION (Purchases of items or sold for cash)

a Serial No. <u>\$5.00</u>	Quantity Presented: <u>35 x</u> <u>—</u> <u>=</u> <u>—</u>	Quantity Returned: <u>\$5 x</u> <u>—</u> <u>=</u> <u>—</u>
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b Serial No. <u>\$2.00</u>	Quantity Presented: <u>32 x</u> <u>4</u> <u>=</u> <u>P</u>	Quantity Returned: <u>\$2 x</u> <u>1</u> <u>=</u> <u>\$2</u>
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VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$ 5.55

Change received: Cash \$ —

Due Bills \$ 4.54

\$2 Coupons = 3 2.00

50¢ " = \$ —

Total Change received: \$ 4.54

IX COUPONS DISCOUNTED OR SOLD FOR CASH

<u>\$ 5 x</u> <u>—</u> <u>=</u> <u>—</u>	sold for cash of	<u>\$</u> <u>—</u>
--	------------------	--------------------

(Quantity)

(Value)

<u>\$ 2 x</u> <u>—</u> <u>=</u> <u>—</u>	sold for cash of	<u>\$</u> <u>—</u>
--	------------------	--------------------

(Quantity)

(Value)

Total \$ — sold for cash of \$ —

(Value)

X Clerk involved

Description of clerk:

Male-Female-Race BLACK Age 25 Height 5'6" Weight 130 Color Hair Brown
(Circle) Color eyes Brown Complexion MED Wear glasses NO

Other identifying info: 3 White Bracelets, 1 Silver Wedding
BAND (ALL ON LEFT HAND)

Comments of clerk:

JEFFREY SCHAFFLER

Name(s) of person(s) assisting in transactions

David J. Ricks

Signature of OIG Representative

5/23/73

Date

RIG-N-2700-2

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(Over)

d Stamp Transaction Worksheet

I Case Title SCHUYLER MARKET, INC.File No. A-2745-1475II Agent DAVID J. RICKSIII Aide RUTH D. OLIVERASIV Date of Transaction 5/24/73Entered Store At 10:20 Left

(Time)

(Time)

V COUPONS INVOLVED IN TRANSACTION (Purchases of items or sold for cash)

a Serial No. <u>\$5.00 E26175650A</u>	Quantity Presented:	Quantity Returned:
ID markings (If used) <u>DR</u>	<u>55 x 6.5 = 350</u>	<u>55 x =</u>

b Serial No. <u>\$2.00 C34090070A</u>	Quantity Presented:	Quantity Returned:
ID markings (If used) <u></u>	<u>32 x 5 = 160</u>	<u>32 = 1 = 12</u>

VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$ 6.17

Change received: Cash <u>0.03</u>
<u>2</u> Due Bills <u>30</u>
<u>3</u> \$2 Coupons = <u>3</u>
<u>3</u> 50¢ " = <u>1.50</u>

Total Change received: 1.83

IX COUPONS DISCOUNTED OR SOLD FOR CASH

<u>5</u> x <u>5</u> = <u>25</u>	sold for cash of \$ <u>0.00</u>
(Quantity) <u>5</u>	(Value) <u>5</u>

<u>2</u> x <u>2</u> = <u>4</u>	sold for cash of \$ <u>0.00</u>
(Quantity) <u>2</u>	(Value) <u>2</u>

Total \$ <u>0.00</u>	sold for cash of \$ <u>0.00</u>
(Value) <u>0.00</u>	

X Clerk involved

Description of clerk:

Male-Female-Race NEGRO Age 27 Height 5'2" Weight 125 Color Hair LT.BR.
(Circle) Color eyes BR. Complexion MEDIUM Wear Glasses Other identifying info: NONE

Comments of clerk:

None

Name(s) of person(s) assisting in transactions

David J. Ricks

Signature of OIG Representative

5/24/73

Date

DEFENDANT'S EXHIBIT N

d Stamp Transaction Worksheet

I Case Title

Schwinn Mfg. Inc. d/b/a Pioneer

File No. N-2745-1415

II Agent

DAVID J RICKS

III Aide Nidia (ABASSA)

IV Date of Transaction

24 May 73

Entered Store At 10:20 Left

(Time)

(Time)

V COUPONS INVOLVED IN TRANSACTION (Purchases of items or sold for cash)

a Serial No. \$5.00	Quantity Presented: 35 x <u> </u> = <u> </u>	Quantity Returned: 35 x <u> </u> = <u> </u>
ID markings (If used) <u> </u>		

b Serial No. \$2.00 C-34090071A	Quantity Presented: 32 x <u> </u> = <u> </u>	Quantity Returned: 32 x <u> </u> = <u> </u>
ID markings (If used) <u> </u>		

VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$ 10.00

Change received: Cash \$
 Due Bills \$
 \$2 Coupons = \$
 50¢ " = \$

Total Change received: \$ NONE

IX COUPONS DISCOUNTED OR SOLD FOR CASH

\$ 5 x = sold for cash of \$
 (Quantity) (Value)

\$ 2 x = sold for cash of \$
 (Quantity) (Value)

Total \$ sold for cash of \$
 (Value)

X Clerk involved

Description of clerk:

Male-Female-Race NEG Age 27 Height 5'2" Weight 125 Color Hair light brown
 (Circle) Color eyes Brown Complexion medium Wear glasses NO

Other identifying info: NONE

Comments of clerk:

NONE

JEFFREY SCHAFFLER

Name(s) of person(s) assisting in transactions

David J. Ricks

Signature of OIG Representative

5/24/73

Date

IG-N-2700-2

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(Over)

DEFT'S EX 0

DEFENDANT'S EXHIBIT O

F Stamp Transaction Worksheet

I Case Title SCHUYLER MARKET INC, D/B/A Pioneer

File No. N-2745-1415

II Agent JEFFREY SCHAFFER

III Aide BUTN D OLIVERAS

IV Date of Transaction 21 May 1973

Entered Store At 9 a.m. Left 7:25 A.m.

(Time) (Time)

V COUPONS INVOLVED IN THIS TRANSACTION (Purchases of items or sold for cash)

a Serial No. \$5.00
ID markings (If used)

Quantity Presented:
 $5 \times 5 = 25$

Quantity Returned:
 $5 \times 5 = 25$

b Serial No. \$2.00 L-34090200 A
ID markings (If used)

Quantity Presented:
 $2 \times 5 = 10$

Quantity Returned:
 $2 \times 5 = 10$

VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$ 9.32

Change received: Cash \$
Due Bills \$ 684
\$2 Coupons = \$
50¢ " = \$

Total Change received: \$ 684

CLARK Gave TWO 25¢ due
BILLS in the 68¢ TOTAL. HE
SHOULD HAVE USED A ~~ONE~~ 50¢
COUPON.

IX COUPONS DISCOUNTED OR SOLD FOR CASH

~~\$ 5 x = sold for cash of \$~~
~~(Quantity) (Value)~~
~~\$ 2 x = sold for cash of \$~~
~~(Quantity) (Value)~~
Total \$ ~~sold for cash of \$~~
~~(Value)~~

X Clerk involved

Description of clerk:
Male/Female-Race White Age 35 Height 5'9" Weight 200 Color Hair light brown
(circle) Color eyes brown Complexion FAIR Wear glasses YES

Other identifying info: Gold Frame GLASSES, White Watch
With Black Band & Gold Ring With Red Stone on Right Hand

Comments of clerk:

NONE

Name(s) of person(s) assisting in transactions

Jeffrey Schaffer
Signature of OIG Representative

29 May 1973
Date

RIG-N-2700-2
Apr 72

(Over)

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DEFT'S Ex P

DEFENDANT'S EXHIBIT
3d Stamp Transaction Worksheet

I Case Title SCHWYLER MARKET INC/11a Pioneer File No. N-2745-1415
 II Agent David J. Ricks III Aide Ruth D. Oliveras
 IV Date of Transaction 30 MAY 1973 Entered Store At 10:55 Left
 (Time) (Time)

V COUPONS INVOLVED IN TRANSACTION (Purchases of items or sold for cash)

a Serial No. <u>\$5.00 E-36975647A</u> <u>ID markings</u> <u>(If used)</u>	Quantity Presented: <u>35 x 6 = \$30.00</u>	Quantity Returned: <u>\$5 x 0 = 0</u>
b Serial No. <u>\$2.00 E-3469679A</u> <u>ID markings</u> <u>(If used)</u>	Quantity Presented: <u>32 x 2 = \$64.00</u>	Quantity Returned: <u>\$2 x 0 = 0</u>

VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$
 Change received: Cash
Due Bills \$
\$2 Coupons = \$
50¢ " = \$

Total Change received: \$

IX COUPONS DISCOUNTED OR SOLD FOR CASH
 35 x 6 = \$30 sold for cash of \$ 15
 (Quantity) (Value)
 32 x 2 = \$64 sold for cash of \$
 (Quantity) (Value)

Total \$ sold for cash of \$
 (Value) HEAVY MAN: 300 LBS., 6'0", WHITE APRON, LONG BLACK
HAIR PLAITED IN THE MIDDLE, ABOUT 45, AND THINKS HE IS MANAGER

X Clerk involved

Description of clerk:
 Male Female - Race WHITE Age 55 Height 5'6" Weight 165 Color Hair GRAY
 (Circle) Color eyes BROWN Complexion LIGHT Wear glasses NO

Other identifying info: LONG NOSE, WEARING A WHITE, CART-
TAKES CARE OF THE VEGETABLES

Comments of clerk: AIDE: "DO YOU KNOW ANYBODY WHO WILL BUY A BOOK OF STAMPS?"
HE SAID "I'LL SET YOU SOMEBODY." HE ~~WALKED~~ AND TALKED TO THE HEAVY MAN. HE CAME
BACK AND SAID "I SOLD THEM FOR YOU." HE GAVE ME \$15.00. HE SAID "ANY TIME YOU
CAN GET MORE COME BACK AND TALK TO ME. I'D LIKE TO GET SOME FOR MYSELF."

NYDIA CABASSA WITNESSED TRANSACTION

Name(s) of person(s) assisting in transactions

David J. Ricks
Signature of OIG Representative30 May 1973
DateRIC-N-2700-2
Apr 72

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(Over)

DEFENDANT'S EXHIBIT P
Food Stamp Transaction Worksheet

I Case Title Schuyler Marker Inc. d/b/a Pioneer File No. 1-2700-1415

II Agent Nidia Grimes David Ricks

IV Date of Transaction 30 May 1973 III Aide Nidia Grimes Entered Store At 10:50 Left 11:10
(Time) (Time)

V COUPONS INVOLVED IN TRANSACTION (Purchases of items or sold for cash)

a Serial No. \$5.00 ID markings (If used) Quantity Presented: \$5 x 1 = \$5.00 Quantity Returned: \$5 x 0 = \$0.00

b Serial No. \$2.00 634090074A ID markings (If used) Quantity Presented: \$2 x 2 = \$4.00 Quantity Returned: \$2 x 0 = \$0.00

VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$ 3.70

Change received: Cash \$ 3.00

 Due Bills \$ 3.00

 \$2 Coupons = 3

 50¢ " = \$ 0.25

Total Change received: \$ 3.00

IX COUPONS DISCOUNTED OR SOLD FOR CASH

\$ 5 x 1 = \$5.00 sold for cash of \$ 5.00

\$ 2 x 1 = \$2.00 sold for cash of \$ 2.00

Total \$ 7.00 sold for cash of \$ 7.00

X Clerk involved

Description of clerk:

Male-Female-Race NEG Age 30 Height 5'4" Weight 155 Color Hair Black
(Circle) Color eyes Brown Complexion MED Wear glasses Yes

Other identifying info: Glasses HAD BLACK FRAME

Comments of clerk:

None

Jeffrey Schaffner

Name(s) of person(s) assisting in transactions

David Ricks

Signature of OIG Representative

30 MAY 1973

Date

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N.C.

(Over)

FBI Stamp Transaction Worksheet

File No. 1785-1918

I Case Title Huyken Market, Inc. 3810 13th St.
 II Agent Bob Special Agent in Charge III Aide Ruth J. Clinton
 IV Date of Transaction 4 June 1973 Entered Store At 11 AM Left (Time) (Time)

V COUPONS INVOLVED IN TRANSACTION (Purchases of items or sold for cash)

a Serial No. <u>55.00</u> <u>ID markings</u> <u>(If used)</u>	Quantity Presented: $55 \times 24 = \$120.00$	Quantity Returned: $55 \times \underline{\quad} = \underline{\quad}$
b Serial No. <u>32.00</u> <u>ID markings</u> <u>(If used)</u>	Quantity Presented: $32 \times 1 = \$2$	Quantity Returned: $32 \times \underline{\quad} = \underline{\quad}$

VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$ 1.83

Change received: Cash \$ 0.02

Due Bills \$ 0.15

\$2 Coupons = 3

50¢ " = \$

Total Change received: \$ 0.17

IX COUPONS DISCOUNTED OR SOLD FOR CASH

\$ 5 24 = \$120 sold for cash of \$ 60

(Quantity) (Value)

\$ 2 1 = \$ sold for cash of \$

Total \$ 120 sold for cash of \$ 60

(Value) CLERK Female 27, Negro, 5'2", 125 lbs, 5/24/73

PARTED
IN MIDDLE
LONG
BLACK
HAIR

X Clerk involved MAN WHO BOUGHT COUPONS

Description of clerk:

Male-Female-Race white Age 45 Height 6'2" Weight 165 Color Hair black
 (Circle) Color eyes BROWN Complexion LIGHT Wear glasses NO

Other identifying info: WH. APRON-AIDC THINKS HE IS MR.

Comments of clerk: "ANY TIME YOU HAVE COUPONS I'LL BUY THEM"

John J. Rich

Name(s) of person(s) assisting in transactions

David Joseph Rich

Signature of OIG Representative

6/4/73

Date

(Over)

I Case Title Jenster Market Inc d/b/a PeacockFile No. N-2745-1415II Agent JEFFREY SCHAFERIII Aide Ruth D. OLIVERASIV Date of Transaction 6/6/73Entered Store At 8:30 Left

(Time)

(Time)

V COUPONS INVOLVED IN TRANSACTION (purchases of items or sold for cash)

a Serial No. <u>35.00</u>	Quantity Presented: <u>25</u>	Quantity Returned: <u>35 x 36 = \$18.00</u>
ID markings <u>72A, 73A, 74A, "IS"</u> (if used)		<u>35 x _____ =</u>

b Serial No. <u>32.00</u>	Quantity Presented: <u>32</u>	Quantity Returned: <u>32 x _____ =</u>
ID markings <u>_____</u> (if used)		

VI ITEMS PURCHASED (List on reverse side)

VII " Refused " " " "

VIII COST OF ITEMS PURCHASED \$

Change received: Cash 3Due Bills 3\$2 Coupons 050% 0Total Change received: 6

IX COUPONS DISCOUNTED OR SOLD FOR CASH

<u>35 x 26 = \$18.00</u>	sold for cash of	<u>\$ 89.00</u>
(Quantity) <u>25</u>	(Value) <u>36</u>	

<u>32 x 32 = 0</u>	sold for cash of	<u>\$ 0</u>
(Quantity) <u>32</u>	(Value) <u>32</u>	

Total <u>\$ 80.00</u>	sold for cash of	<u>\$ 90.00</u>
(Value)		

Long dark
hair
placed in
middle

X Clerk involved

6'2" 165

Description of clerk:
Male-Female-Race White Age 15 Height 6'2" Weight 165 Color Hair Dark
(Circle) Color eyes Brown Complexion Dark Light Wear glasses No See keyOther identifying info: He thinks he's Manager. Long Person. As visitor
6/4/73Comments of clerk: He asked me if he wanted to buy food stamps - he asked how many. He said six books of he said ok. He then bought \$180.00 worth of food stamps for \$90.00
See Remarks

Name(s) of person(s) assisting in transactions

<u>Jeffrey</u>	<u>Ruth</u>
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Signature of DIG Representative

<u>6</u>	<u>June</u>	<u>1973</u>
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Date

E-N-2700-2

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(Over)

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W. L. Clegg, Jr.
April 21, 1925
Dwight